

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (or "Agreement"), made and entered into this ____ day of _____, 20__, by and between the CITY OF HOLLYWOOD, Florida, a municipal corporation organized and existing under the laws of the state of Florida ("CITY"), and Thermo Air, Inc. ("CONTRACTOR")(jointly referred to as the "Parties").

WITNESSED: The Parties, for and in the consideration set forth herein, mutually agree as follows:

Article 1. Scope of Work: The CONTRACTOR shall furnish all labor, materials, and equipment and perform all work in the manner and form provided by the Contract Documents, for:

Hollywood City Hall Chiller Replacement

Bid No.: IFB-195-24-WV

Article 2. The Contract Sum: The CITY shall pay to the CONTRACTOR, for the faithful performance of the Contract and subject to additions and deductions as provided in the Contract Documents, as follows:

Based upon the prices shown in the Proposal submitted by the CONTRACTOR to the CITY, a copy of which is made a part of this Contract, the City shall pay to the CONTRACTOR for the work set forth in the Contract Documents the amount up to \$593,700.00.

Article 3. Partial and Final Payments: In accordance with the provisions set forth in the "General Conditions" of the Specifications, and subject to additions and deductions as provided in the Contract Documents, the CITY shall pay the CONTRACTOR as follows:

- (a) On the 15th day, or the first business day thereafter, of each calendar month, the CITY shall make partial payments to the CONTRACTOR on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the CONTRACTOR, less five percent of the amount of such estimate, which is to be retained by the CITY until all work has been performed strictly in accordance with this Agreement and until such work has been accepted by the CITY. The parties' rights and obligations regarding retainage are further specified in Section 218.735, Florida Statutes.
- (b) Upon submission by the CONTRACTOR of evidence satisfactory to the CITY that all payrolls, material bills and other costs incurred by the CONTRACTOR in connection with the construction of the WORK have been paid in full, and also, after all guarantees that may be required in the Specifications have been furnished and are found acceptable by the CITY, final payment on account of this Agreement shall be made within 60 days after completion by the CONTRACTOR of all work covered by this Agreement and acceptance of such work by the PROJECT MANAGER and approved by the CITY.

Article 4. Time of Completion: The CONTRACTOR shall commence work to be performed under this Contract within ten (10) consecutive calendar days after the date of the written Notice To Proceed, and shall fully complete the Contract in accordance within the Contract Documents and meet all intermediate milestone completion dates required after the date of the written notice as set forth in the Proposal, as may be modified by Instructions to Bidders and stated in the Notice to Proceed.

It is mutually agreed between the Parties that time is the essence, and in the event that construction of the work is not completed within the Contract Time and intermediate dates, as may have been modified solely in accordance with the General Conditions of this Contract, that from the compensation otherwise to be paid to the CONTRACTOR, the CITY is authorized and shall retain, for each day thereafter, Sundays and holidays included, the sum set forth in the Supplementary General Conditions of this Contract as liquidated damages sustained by the CITY in the event of such default by the CONTRACTOR, or shall withhold such compensation for actual and consequential damages as may be provided therein.

Article 5. Additional Bond: It is further mutually agreed between the Parties that if, at any time after the execution of this Contract and the Payment and Performance Bonds required by the Contract Documents for the express purpose of assuring the full and faithful performance of the CONTRACTOR'S work, the CITY shall deem the surety or sureties' to be unsatisfactory, or, if for any reason, the bonds cease to be adequate to cover the performance of the work, the CONTRACTOR shall, at his sole expense, within five days after receipt of notice from the CITY, furnish an additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the CITY. In such event, no further payment to the CONTRACTOR shall be deemed to be due under this Contract until such new or additional security for the faithful performance of the work shall be furnished in a manner and form satisfactory to the CITY.

Article 6. Contract Documents: All of the below listed documents form the "Contract Documents," and all Contract Documents are as fully a part of this Contract as if attached or repeated in this Contract:

- | | |
|--------------------------------------|--------------------------------------|
| 1. Notice to Bidders | 9. Contract |
| 2. Instruction to Bidders | 10. Performance Bond |
| 3. Proposal | 11. Payment Bond |
| 4. Proposal Bid Form | 12. General Conditions |
| 5. Bid Bond | 13. Supplementary General Conditions |
| 6. Information Required from Bidders | 14. Technical Specifications |
| 7. Addenda | 15. Drawings |
| 8. Trench Safety Form (N/A) | |

Article 7. The rate of wages and fringe benefits, or cash equivalent, for all laborers, mechanics and apprentices employed by any contractor or subcontractor on the work covered by the Contract shall be not less than the prevailing rate of wages and fringe benefit payments or cash equivalent for similar skills or classifications of work as established by the General Wage Decision by the United States Department of Labor for Broward County, Florida, that is in effect prior to the date the CITY issues its invitation for bids. If the General Wage Decision fails to provide for a fringe benefit rate for any worker classification, then the fringe benefit rate applicable to the worker classification shall be the fringe benefit rate applicable to the worker classification with a fringe benefit rate that has a basic hourly wage closest in dollar amount to the worker classification for which no fringe benefit rate has been provided.

Article 8. No additional work or extras shall be performed unless the same is duly authorized by appropriate action of the CITY.

Article 9. That in the event that either party brings suit for enforcement of this Contract or because of some disagreement, the prevailing party shall be entitled to attorney's fees and court costs, in addition to any other remedy afforded by law.

Article 10. The Contractor shall guarantee the complete project against poor workmanship and faulty materials for a period of 12 months after final payment, and shall immediately correct any defects which may appear during this period upon notification by the City or the PROJECT MANAGER.

Article 11. The making and acceptance of the final payment shall constitute a waiver of all claims by the CONTRACTOR, except those previously made that remain unresolved.

Article 12. Contract Term: The initial term of this Contract shall be for a period of 120 calendar days beginning upon the issuance of the notice to proceed.

Article 13. IF THE Thermo Air Inc (COLLECTIVELY KNOWN AS "CONTRACTOR" IN THIS SECTION) 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 954.921.3211, pcerny@hollywoodfl.org, Hollywood City Hall 2600 Hollywood Blvd., Room 221 Hollywood, FL 33020.

(b) Contractor must comply with public records laws, specifically to:

- 1. Keep and maintain public records required by the public agency to perform the service.**
- 2. Upon request from the public agency's custodian of public records, provide the public agency 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 or as otherwise provided by law.**
- 3. 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 the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.**
- 4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency 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 public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IN WITNESS WHEREOF, the Parties have executed this Contract on the day and date first above written in three counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original Contract:

THE CITY OF HOLLYWOOD, FLORIDA

By: _____
JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM:

DOUGLAS R. GONZALES
CITY ATTORNEY

WHEN THE CONTRACTOR IS A CORPORATION:

Attest: Christopher Dewit

Secretary VP

Robert Seitz
VP

THERMO AIR INC.
(Correct Name of Corporation)



BY: [Signature] (SEAL)
President

APPROVED AS TO FORM:

APPROVED AS TO FINANCE:

By _____
Douglas R. Gonzales
City Attorney

By _____
Stephanie Tinsley
Financial Services Director

CERTIFICATE


**STATE OF FLORIDA
COUNTY OF BROWARD**


I HEREBY CERTIFY that a meeting of the Board of Directors of THERMO AIR INC, a corporation under the laws of the State of FL, was held on AUG 15, 2024 and the following resolution was duly passed and adopted:

"RESOLVED, that CHRISTOPHER DEWITT as PRES (President of the corporation), be and he is hereby authorized to execute the contracts on behalf of this corporation, and that his execution thereof, attested by the Secretary of the corporation and with corporate seal affixed, shall be the official act and deed of this corporation."

I further certify that this resolution is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the corporation this 15TH day of AUG, 2024.



Secretary VP


VP

- END OF SECTION -

PERFORMANCE BOND
(PERFORMANCE BOND #: _____)

KNOW ALL MEN BY THESE PRESENTS:

That we _____,
Name Address Tel. No.
as Principal, and _____

Name Address Tel. No.

as Surety, are held and firmly bound unto the City of Hollywood in the sum of _____ Dollars (\$ _____), and for the payment of said sum we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally, for the faithful performance of a certain written contract, dated the _____ day of _____, 20____, entered into between the Principal and the City of Hollywood, Florida, for the work of the City Hall Chiller Replacement, Bid No. IFB-195-24-WV

A copy of the Contract is incorporated by reference and is made a part hereof as if fully set forth herein.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if the Principal shall in all respects comply with the terms and conditions of the Contract and his/its obligations thereunder, including all of the Contract Documents (that include the Notice to Bidders, Instructions to Bidders, Proposal, Proposal Bid Form, Basis of Payment, Approved Bid Bond, Trench Safety Form, Information Required from Bidders, Contract, Performance Bond, Payment Bond, General and Supplementary General Conditions, Technical Specifications, Addenda and Drawings), referred to and made a part thereof, and such alterations as may be made in the Drawings and Specifications as therein provided for, and shall indemnify and save harmless the City of Hollywood against and from all expenses, damages, injury or conduct, want of care or skill, negligence or default, including patent infringement on the part of the Principal, his agents or employees in the execution or performance of the Contract, including errors in the Drawings furnished by the Principal, and further, if the Principal shall promptly make payments to all who supply him, with labor and/or materials, used directly or indirectly by the Principal in the prosecution of the work provided for in the Contract, then this obligation shall be null and void; otherwise, the Principal and Surety, jointly and severally, agree to pay the City of Hollywood any difference between the sum that the City of Hollywood may be obliged to pay for the completion of the work, by Contract or otherwise, and the sum that the City of Hollywood would have been obliged to pay for the completion of the work had the Principal properly executed and satisfied all of the provisions of the Contract, and any damages, whether direct, indirect, or consequential, which the City of Hollywood may incur as a result of the failure of the Principal to properly execute all of the provisions of the Contract.

AND, the Principal and Surety further bind themselves, their successors, executors, administrators and assigns, jointly and severally, that they will amply and fully protect the City of Hollywood against, and will pay any and all amounts, damages, costs and

judgments which may be recovered against or which the CITY may be called upon to pay to any person or corporation by reason of any damage arising from the performance of the work, repair or maintenance thereof, or the manner of doing the same, or his agents or his servants, or the infringements of any patent rights by reason of the use of any material furnished or work done, as aforesaid or otherwise.

AND, the Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications and Drawings accompanying the same, shall in any way affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications and Drawings.

WHEN THE PRINCIPAL IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of:

Performance Bond #: _____

(Witness)

(Signature of Individual)

(Address)

(Printed Name of Individual)

(Witness)

(Address)

WHEN THE PRINCIPAL IS A SOLE PROPRIETORSHIP OR OPERATES UNDER A TRADE NAME:

Signed, sealed and delivered in the presence of:

Performance Bond #: _____

(Witness)

(Name of Firm)

(Address)

By: _____
(Seal)
(Signature of Individual)

(Witness)

Address

WHEN THE PRINCIPAL IS A PARTNERSHIP:

Signed, sealed and delivered in the presence of:

Performance Bond #: _____

(Witness)

(Name of Partnership)

(Address)

By: _____
(Seal)
(Partner)

(Witness)

(Printed Name of Partner)

Address

WHEN THE PRINCIPAL IS A CORPORATION:

Attest:

Performance Bond #: _____

(Secretary)

(Name of Corporation)

By: _____
(Seal)
(Affix Corporate Seal)

(Printed Name)

(Official Title)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the Secretary of the corporation named as Principal in the within Bond; that _____, who signed the Bond on behalf of the Principal was then _____ of the corporation; that I know his signature, and his signature thereto is genuine; and that the Bond was duly signed, sealed and attested for and on behalf of the corporation by authority of its governing body.

Secretary (SEAL)

TO BE EXECUTED BY CORPORATE SURETY

Attest:

Performance Bond #: _____

(Secretary)

(Corporate Surety)

(Business Address)

By: _____
(Affix Corporate Seal)

(Attorney-In-Fact)

(Name of Local Agency)

(Business Address)

STATE OF FLORIDA

Before me, a Notary Public, duly commissioned, qualified and acting, personally appeared, _____, to me well known, who being by me first duly sworn upon oath, says that he is the attorney-in-fact for the _____ and that he has been authorized by _____ to execute the foregoing Bond on behalf of the CONTRACTOR named therein in favor of the City of Hollywood, Florida.

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public, State of Florida

My commission expires:

APPROVED AS TO FORM:

APPROVED AS TO FINANCE:

By _____
Douglas R. Gonzales

By _____
Stephanie Tinsley
Financial Services Director

- END OF SECTION -

PAYMENT BOND

(PAYMENT BOND #: _____)

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
Name Address Tel. No.

As Principal and _____
Name Address Tel. No.

as Surety, are held and firmly bound to the CITY OF HOLLYWOOD, FLORIDA ("City"), in the sum of _____ Dollars (\$ _____) for the payment of said sum we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally, for the faithful performance of a certain written Contract dated the _____ day of _____, 20____, entered into between the Principal and the City of Hollywood, Florida for the work related to City Hall Chiller Replacement, Bid No. IFB-195-24-WV

Which Contract is by reference made a part hereof and is referred to as the "Contract".

THE CONDITION of this bond is that if the Principal promptly makes payments to all claimants defined in Section 255.05 (1), F.S., supplying Principal with labor, materials or supplies used directly or indirectly by principal in the prosecution of the work provided for in the Contract, then this bond shall be null and void and of no further force and effect; otherwise to remain in full force and effect.

The Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or any other changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract does not affect Surety's obligation under this bond, and Surety waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or any other changes, compliance, or noncompliance to the terms of the Contract or to the work or to the Specifications.

This bond is furnished pursuant to the statutory requirements for bond on public works projects being Florida Statute Section 255.05. Claimants are hereby notified that Florida Statute Section 255.05(2) specifically requires that notice be given to Contractor within 45 days after beginning to furnish labor, materials or supplies for the prosecution of the work that claimants intend to look to the bond for protection. Further notice is given claimants that written notice of nonpayment within 90 days after performance of the labor or after complete delivery of the materials or supplies must be delivered to the Contractor and to the Surety. Further notice is given that no action for labor, materials or supplies may be instituted against the Contractor or the Surety on the bond after one year for the performance of the labor or completion of delivery of the materials or supplies.

Without modifying the foregoing, this bond shall be construed as requiring of the principal and Surety no more and no less than is specified in F.S. Section 255.050.

SIGNED AND SEALED this _____ day of _____, 20__.

PRINCIPAL:

ATTEST:

Payment Bond #: _____

(Signature)

(Title)

(SEAL)

SURETY:

(Surety)

ATTEST:

(Signature)

(Attorney-in-Fact)

APPROVED AS TO FORM:

APPROVED AS TO FINANCE:

By _____
Douglas R. Gonzales
City Attorney

By _____
Stephanie Tinsley
Financial Services Director

- END OF SECTION -