

**FIRST AMENDMENT TO CITY OF NAPLES, FLORIDA  
AGREEMENT (SERVICES)**

**THIS FIRST AMENDMENT** is made and entered into this 4<sup>m</sup> day of OCTOBER, 2023, by and between the CITY OF NAPLES, a Florida municipality, hereinafter referred to as the “City”, and CRYSTAL COATINGS, LLC, a Florida limited liability company, and formerly known as Crystal Coatings, Inc. (hereinafter referred to as “Contractor”), to that certain City of Naples, Florida Agreement (Services) dated September 18, 2019, Clerk Tracking No. 2019-00203.

**WITNESSETH:**

**WHEREAS**, recent changes to Florida law and the City of Naples Code of Ordinances require inclusion of certain contractual provisions in agreements between the City and its Contractors; and

**WHEREAS**, the parties desire to update its existing Agreement to include the additional terms and conditions contained in this First Amendment; and

**WHEREAS**, Crystal Coatings, Inc. was recently converted to Contractor and the City is agreeable to an assignment of the Agreement to the new entity; and

**WHEREAS**, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency’s statutorily mandated annual budget approval process; and

**WHEREAS**, Section 448.095, Florida Statutes, imposes certain obligations on public agencies with regard to the use of the E-Verify system by their Contractors and subcontractors; and

**WHEREAS**, Sections 287.133, 287.135 and 287.138, Florida Statutes, provide restrictions on local governments contracting with companies that are on certain “Scrutinized Companies” lists; and

**WHEREAS**, Contractor is a “Covered Person” as that term is defined by Section 17.3.(1)(a) of the Naples Charter and the City of Naples Code of Ethics, as applicable, and as it may be amended from time to time; and

**WHEREAS**, the changes made to the Agreement by this amendment are in the best interest of the residents of the City of Naples.

**NOW, THEREFORE**, in consideration of the covenants set forth herein, the parties agree to this amendment as follows:

**1. Amendment.** This Amendment hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of this Amendment, the terms of this Amendment shall prevail.

**2. Non-appropriation.** The City's performance and obligation to pay under the Agreement is contingent upon an appropriation during the City's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the City Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated notwithstanding any automatic renewal as may be provided in the Agreement. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the City, subject to the City paying all invoices for services rendered during the period the Agreement was funded by an appropriation.

**3. E-Verify Compliance.** By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the Subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to City incurred as a result of the termination of this Agreement in accordance with this section. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its Subcontractors an affidavit stating that the Subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

**4. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes.** Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria.

Accordingly, Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with City for goods or services of any amount may be terminated at the option of City if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized

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Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of City if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

**5. Public Entities Crime or Convicted Vendor List.** The Contract has a continuous duty to disclose to the City if the Contractor or any of its affiliates as defined by Section 287.133(1) (a), Florida Statutes are placed on the convicted vendor list or the Antitrust Violator Vendor List. Contractor further agrees to not give access to an individual's personal identifying information if:

**6. Compliance with Ethics Codes.** This Agreement is subject to Chapter 112, Florida Statutes and Contractor shall disclose the name of any officer, director, employee or other agent who is also an employee of the City of Naples. The Contractor shall also disclose the name of any City of Naples employee who owns, directly or indirectly, more than a five percent (5%) interest in the Contractor's or its affiliates, business entity.

In addition, Contractor agrees and understands that by entering into this contract, Contractor is a "Covered Person" as that term is defined by Section 17.3. (1)(a) of the City Charter and must comply with the City of Naples Code of Ethics, as applicable and as it may be amended from time to time. Any conflict between the City's Ethics Code and the contractual terms which contained in this contract follow shall be resolved in favor of the City's Ethics Code, as it may be amended from time to time. As provided in Section 2-975(h)(3)(a) and (b) of the Ethics Code, except as otherwise prohibited by law:

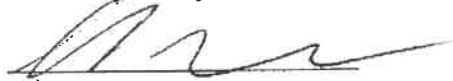
- (a) Contractor is prohibited from employing, or offering to employ any compensated public official or city employee who is substantially involved with the regulation, oversight or management of the contract or the transaction of business during the term, and for a period of two years after termination, of the contract; and
- (b) Contractor agrees to pay for liquidated damages in favor of the city for violation of this subsection in the amount equal to the greater of: (i) the compensation received by the compensated public official or city employee from the business entity; and (ii) the amount equal to the total of the compensated public official's or city employee's last two years of gross compensation from the city.

**7. Data Management; Notice of Breach.** Contractor shall cooperate with timely incident reporting, response activities/fact gathering, public and agency notification requirements, severity level assessment, after-action reports as provided in Section 282.3185 (5) & (6), Florida Statutes.


**8. Environmental and Social Government and Corporate Activism.** Contractor is prohibited from giving preference to any subcontractor based on the subcontractor's social, political or ideological interests as mandated in Section 287.05701, Florida Statutes.


9. **Assignment.** In accordance with Paragraph 14.1, the City hereby consents and agrees to an assignment of the Agreement from Crystal Coatings, Inc. to Contractor. Contractor agrees to assume the duties and responsibilities of Crystal Coatings, Inc., including but not limited to the insurance requirements contained in Paragraph 7.1.

**IN WITNESS WHEREOF**, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

  
Witness  
Print Name: Bobby Channell

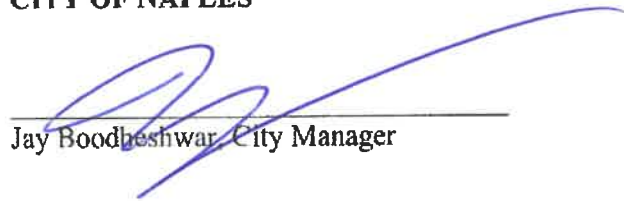
**CRYSTAL COATINGS LLC**



  
Signature  
Print Name: Gregory Tomci  
Title: PRESIDENT

  
Witness  
Print Name: Mindy Crawford

Date Signed by Contractor: 9-25-23

**CITY OF NAPLES**

  
Jay Boodheshwar, City Manager

  
ATTEST.   
Patricia Rambosk, City Clerk  
Date signed by City: 10/10/23

Approved as to form and sufficiency

  
City Attorney

Date signed by City: 10/10/23