

Peter Smith, G3WB

Here is the contract and
other attached info.

Please review, update or
whatever you have to do.

Rec'd by PHJ
4/26/85

Thank

Tony Warner

Tony, 3/6/85

Here is your original
contract w/ my notations
on the copy.

Pete

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C16666

RECEIVED FEB 18 1985

Monsanto

MONSANTO INDUSTRIAL CHEMICALS CO.

1700 South Second Street

St. Louis, Missouri 63177

Phone: (314) 822-1400

February 13, 1985

Mr. Ira Kane
G. H. Materials Company
16406 U.S. Route 224 East
P.O. Box 551
Findlay, OH 45839-0551

Dear Mr. Kane:

Enclosed herewith please find two (2) copies of subject contract which covers cleaning and decontaminating interior building surfaces and equipment of 2,3,7,8-TCDD (dioxin) as directed by Monsanto's Plant Representative. Please sign both copies of the contract, returning the original to the writer's attention and keeping the copy for your files.

We would also appreciate receiving a copy of Certificate of Insurance as noted in Paragraph 12. Please note the limits required. We will need this Certificate showing your coverage before work can begin.

Thank you for your prompt attention to this request.

Yours very truly,


Tony Wasser
Purchasing Buyer

/ymt

Enclosures

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7. Contractor agrees to comply with all statutes, laws, ordinances, codes, rules and regulations applicable to the Work, including Monsanto's policies, practices and rules for the jobsite. Contractor shall pay all sales, use, consumer, service or other similar tax required by the law of the place of construction.

8. Contractor agrees to utilize his best skill and judgment in performing the Work and to cooperate with Monsanto in every way. Contractor agrees to provide competent supervision and direction and to maintain at the jobsite the necessary material, equipment and skilled workmen to properly prosecute the Work to completion.

9. Contractor warrants that the Work will be of high quality, with workmanship proper and sufficient for the purpose contemplated and in accordance with the best trade practices. Contractor further warrants that the Work shall fulfill the terms of all special guarantees established by the Contract and that the Work shall be free from defects due to faulty materials, equipment or workmanship, until the expiration of one year from the date of final payment or throughout such longer period as may be provided in the Contract. Monsanto will give notice of observed defects with reasonable promptness. Contractor shall promptly reimburse Monsanto for its costs in remedying such defects or, at Monsanto's option, Contractor shall at his own expense and with all possible speed remedy such defects. In either case, Contractor shall also pay for any resulting damage to other property and work. Any cost for which Contractor is liable under this Contract shall be borne by Contractor, and Monsanto, in addition to any other right or rights it may have, may withhold money otherwise due Contractor to cover any such cost.

10. Contractor agrees that he and his employees shall treat as Monsanto's confidential property and shall not use or disclose to others during or subsequent to the term of this Contract (except as is necessary to perform the Work hereunder and then only with the prior approval of Monsanto and on a confidential basis satisfactory to Monsanto) any information (including any technical information, experience or data) regarding Monsanto's plans, programs, plants, processes, systems, products, costs, equipment, operations or customers (including any similar information Monsanto has received or may receive from third parties) which may come within the knowledge of, or which may be developed by, Contractor or his employees in the performance of or in connection with the Work without in each instance securing the prior written consent of Monsanto. Nothing herein, however, shall prevent Contractor from disclosing to others or using in any manner any information which Contractor can show:

(a) has been published and has become part of the public domain other than by acts or omissions of Contractor or his employees;

(b) has been furnished or made known to Contractor by third parties (other than in connection with the Work) as matter of right and without restriction on disclosure or use; or

(c) was in Contractor's possession on the date of this Contract and was not acquired by Contractor or his employees directly or indirectly from Monsanto or its employees.

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For the purposes of this article, no information obtained by Contractor or his employees from Monsanto shall be deemed to be in the public domain or in the prior possession of Contractor or his employees merely because it is embraced by more general information in the public domain or by more general information in the prior possession of Contractor or his employees. Contractor shall restrict the knowledge of all information regarding the Work to as few as possible of his employees who are directly connected with performance of the Work and have a definite need for such knowledge. Upon request by Monsanto, Contractor shall cause such persons involved in the Work on Contractor's behalf as Monsanto may designate to sign individual secrecy agreements in a form satisfactory to Monsanto. *specified in Exhibit "B."*

11. Contractor shall provide safe and proper facilities for both access to and inspection of the Work by Monsanto. If portions of the Work are performed off Monsanto's premises, Contractor shall make whatever arrangements are necessary to enable Monsanto to inspect such portions of the Work when requested by the Representative. If the specifications, the Representative's instructions, laws, ordinances or any public authorities require the Work or any portion thereof to be specially tested or approved, Contractor shall give the Representative timely notice of its readiness for inspection and, if the inspection is by an authority other than the Representative, of the date fixed for such inspection, and Contractor shall secure all required certificates of inspection. Any portion of the Work covered up without the approval or consent of the Representative must, if required by the Representative, be uncovered for examination at Contractor's expense.

12. Monsanto may make changes in the specifications or drawings, issue additional instructions or require additions to or deductions from the Work (all of which are hereinafter referred to as a "change" or "changes"), and the amount payable to Contractor under this Contract shall be adjusted accordingly. The provisions of this Contract shall apply to all such changes to the same extent as if originally set forth herein, and Contractor shall proceed therewith when so ordered by the Representative. If any such change involves extra cost, Contractor shall so notify Monsanto within ten days after receipt of the order covering the same, and no claim for payment or reimbursement shall be valid unless such notice is given. If any such change is an addition to the Work, and a lump-sum price is not agreed upon, Contractor shall be paid on a unit-price or a cost-plus-a-percentage basis that is either attached to this Contract as an exhibit or agreed to in writing by the Representative. When payment is on a unit-price or cost-plus-a-percentage basis, Contractor shall keep an accurate record of all quantities and costs incurred thereby, in such form and supported by such evidence as the Representative requires. If any such change is a deduction from the Work, the value of such change shall be determined on the basis of a reasonable estimate of the cost of said deduction. Except for minor changes not involving extra cost, no changes shall be made except pursuant to a written order from the Representative, and no claim for payment or reimbursement shall be valid without such an order.

13. Contractor shall promptly, and before such conditions are disturbed, notify the Representative in writing of:

- (a) subsurface or latent physical conditions at the site differing materially from those indicated in this Contract, or
- (b) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

The Representative shall promptly investigate the above-mentioned physical conditions. If he finds that such conditions do so materially differ and that the same cause an increase or decrease in Contractor's cost of, or time required for, performance of the Work, an equitable adjustment shall be made and the Contract modified in writing accordingly. No claim of Contractor for adjustment hereunder shall be allowed unless he has given notice as herein required.

14. Monsanto may, by giving written notice to Contractor, terminate this Contract at any time. If Monsanto terminates this Contract for reason other than Contractor's breach of any of the provisions hereof, Monsanto shall pay Contractor for all costs previously incurred in connection with the Work, plus a reasonable allowance for overhead and profit. Additionally, Monsanto shall assume and become liable for all contracts, obligations and commitments that Contractor has, in good faith, undertaken or incurred in connection with the Work prior to receiving any termination notice. Contractor shall, as a condition precedent to any such payment or assumption by Monsanto, execute and deliver all such papers and take all such steps, including the legal assignment of his contractual rights, as Monsanto may require. Upon any termination as set forth herein Monsanto shall be entitled to defer payment to Contractor to the extent of all bona fide claims it may have against Contractor under or arising out of this Contract until such claims have been settled.

15. Contractor agrees that Monsanto may, by oral or written notice, suspend, delay or interrupt all or any part of the Work at any stage of its progress for the period hereinafter provided. Any oral notice given pursuant hereto shall be confirmed in writing within three days thereafter. If the Work is suspended, delayed or interrupted by Monsanto for a period of ninety days, and unless Contractor agrees in writing to a longer period, Contractor may, at any time thereafter and upon not less than sixty days prior written notice to Monsanto, terminate this Contract and recover from Monsanto for that portion of the Work completed as if Monsanto had terminated this Contract pursuant to article 14 hereof. If Contractor is authorized to resume the Work that was suspended, delayed or interrupted, the Contract shall be equitably adjusted in writing to provide for any necessary increase in the time required for, or the cost properly allocable to, the performance of the Work; provided, however, that Contractor submits a claim for such adjustment within 30 days after such resumption of the Work.

16. Contractor shall defend all suits or claims for infringement of any patent rights arising out of the Work and shall save Monsanto harmless from loss on account thereof; provided, however, that Monsanto shall be responsible for all such loss when it or the Representative specifies any particular equipment, material, the product of a particular manufacturer or a Monsanto process, which is an infringement of a patent; provided, further, however, that if the Contractor has information indicating that any such designated equipment, material, the product of a particular manufacturer or a Monsanto process, or the use thereof, might constitute an infringement of a patent, Contractor shall promptly inform the Representative in writing and unless Contractor does so inform the Representative, Contractor shall be responsible for any loss suffered by Monsanto as a result of such omission.

17. No payment under the Contract shall become due and payable until Contractor, if required, has delivered to Monsanto complete releases of all liens and all other claims of whatever nature which have arisen or which could arise as a result of any operations related to the Work or the Contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that so far as Contractor has knowledge or information the releases and receipts include all operations, labor, equipment, materials and all things for which a lien or other claim could be filed or made. Said releases shall be effective as to liens and claims existing as of the date payment is requested. If any lien or other claim remains unsatisfied after all payments are made, Contractor shall refund to Monsanto all moneys that Monsanto may be compelled to pay in discharging such a lien or claim, including all costs and reasonable attorneys' fees.

18. Contractor shall not assign this Contract or sublet it as a whole nor shall Contractor assign any moneys due or to become due to him hereunder, without the prior written consent of Monsanto. Any attempt to so assign or sublet shall be void. Assignment or subletting with such consent shall in no way relieve Contractor of any of his obligations under the Contract.

19. The title to all Work completed or in the course of construction at the jobsite shall be in Monsanto; title to all materials, supplies and equipment intended for incorporation into the Work shall pass to Monsanto upon delivery at the jobsite; provided, however, that such passage of title shall in no way relieve Contractor of any of his obligations under this Contract.

20. Except as hereinafter set forth, Contractor agrees to indemnify and save Monsanto and its employees harmless against any and all liabilities, penalties, demands, claims, causes of action, suits, losses, damages, costs and expenses (including cost of defense, settlement and reasonable attorneys' fees) which any or all of them may hereafter suffer, incur, be responsible for or pay out (whether the same arise out of or are in connection with the Work, or from any operations under or in connection with the Contract) as a result of bodily injuries (including death) to any person or damage (including loss of use) to any property occurring to, or caused in whole or in part by, Contractor (or any of his employees), any of his Subcontractors (or any employee thereof), or any person, firm or corporation (or any employee thereof) directly or indirectly employed or engaged by either Contractor or any of his Subcontractors. ~~Upon the request of Monsanto, Contractor shall promptly defend any such demand, claim, cause of action or suit to the extent such bodily injury or damage to property is caused by the negligent performance of the work by contractor. Upon the request of Monsanto, contractor shall promptly defend any such demand, claim, cause of action or suit.~~

Except as hereinafter set forth, Contractor agrees to make full reimbursement for any damage, including loss of use, to existing property or property being installed which may arise out of or in connection with the Work or from operations under or in connection with the Contract, and is caused, in whole or in part, by Contractor (or any of his employees), any of his Subcontractors (or any employee thereof), or any person, firm or corporation (or any employee thereof) directly or indirectly employed or engaged by either Contractor or any of his Subcontractors, to the extent such bodily injury or damage to property is caused by the negligent performance of the work by contractor.

Monsanto agrees that Contractor shall not be liable to Monsanto under the Contract for:

(a) loss of use resulting from damage to property of Monsanto under Contractor's care, custody or control;

~~(b) liabilities, penalties, demands, claims, causes of action, suits, losses, damages, costs and expenses arising out of bodily injury (including death) to any person or damage (including loss of use) to any property caused by or resulting from the sole negligence of Monsanto, its employees or its agents.~~

21. Contractor shall not begin the Work under this Contract until:

(a) he has obtained all the insurance required herein,

(b) he has furnished certificates of insurance satisfactory to Monsanto, and

(c) such insurance and the certificates have been approved by Monsanto.

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Every contract of insurance providing the coverages required herein shall contain the following clause: "No reduction, cancellation or expiration of this policy shall become effective until ten days from the date written notice is actually received by" (followed by the name and address of the person designated in article 25 hereof as the recipient of notices to Monsanto).

22. Contractor shall take out and maintain for the life of this Contract (at his own expense unless otherwise specifically set forth) at least the following insurance:

<u>Coverage</u>	<u>Limits</u>
(a) Workmen's Compensation	Statutory
(b) Employer's Liability	500,000 each occurrence
(c) Public Liability (Bodily Injury)	200,000 each person 1,000,000 each occurrence
(d) Public Liability (Property Damage)	200,000 each occurrence
(e) Automobile Liability (Bodily Injury)	200,000 each person 500,000 each occurrence
(f) Automobile Liability (Property Damage)	50,000 each occurrence

The public liability insurance specified in subparagraphs (c) and (d) above shall include coverage for all of Contractor's contractual liability under article 20 with limits not less than those set forth in subparagraphs (b), (c) and (d) above.

Monsanto agrees, however, that such public liability insurance need not cover: (1) damage, or loss of use resulting from such damage, to property of Monsanto under Contractor's care, custody or control, or (2) liabilities, penalties, demands, claims, causes of action, suits, losses, damages, costs and expenses arising out of bodily injury (including death) to any person or damage (including loss of use) to any property caused by or resulting from the sole negligence of Monsanto, its employees or its agents.

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23. Contractor shall bind all his Subcontractors to the terms of this Contract which are applicable to the Work sublet.

24. The obligations of Contractor under articles 6, 7, 9, 10, 12, 14, 16, 17, 18, 20 and 24 of this Contract shall survive any termination of the Contract, or the suspension, completion and/or acceptance of the Work or any part thereof, or final payment to Contractor, it being agreed between Contractor and Monsanto that said obligations shall be of a continuing nature and effect.

25. All notices pertaining to this Contract shall be sufficiently given if delivered in person or sent by registered or certified mail addressed as follows:

(a) If to Monsanto: Anton W. Wasser, Purchasing Supervisor, Monsanto Company, J.F. Queeny
Plant, 1700 So. 2nd Street, St. Louis, MO 63177

(b) If to Contractor: Ira Kane, O.H. Materials Company, 16406 U.S. Route 224 East
P.O. Box 551, Findlay, OH 45839-0551

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Either party, by written notice to the other party, may change the person and/or address to which notice shall be given. Both parties agree to acknowledge in writing the receipt of any notice delivered in person.

26. This Contract (including attached Exhibit(s) A, B, and C) sets forth the entire agreement between Contractor and Monsanto with respect to the subject matter hereof. All prior negotiations and dealings regarding the subject matter hereof are superseded by and merged in this Contract. All time limits stated in this Contract are of the essence thereof.

27. Special Provisions (if any):

Contractor has read and is familiar with the Williams-Steiger Occupational Safety and Health Act of 1970, as amended (OSHA) and other applicable state or local laws and shall comply fully therewith.

The treatment and care of injuries sustained by Contractor's employees shall be and remain the responsibility of Contractor. However, Monsanto's first aid facilities will be made available to Contractor's employees in emergency cases which are the direct result of accidents occurring on Monsanto's plant site during authorized work hours. Monsanto shall incur no liability for, and Contractor hereby agrees to indemnify Monsanto against any causes of action, claim, liability, or cost including attorneys' fees arising in whole or in part out of the furnishing of such first aid facilities to Contractor's employees or out of the failure to furnish such facilities.

All invoices for materials and/or fees covered under this contract will reference this contract number, and Monsanto purchase order.

Designated Monsanto Plant Representative: Thomas R. Alvarez

Contractor know and understands that the Work involves removal of waste which contains materials which are, or may have been in contact with or certain substances that are toxic or hazardous. Certain information as to the character of the waste and certain recommended precautions for exposure to the waste have been provided to Contractor by Monsanto as described in Exhibit C.

Contractor shall advise and inform its employees, agents, representatives and subcontractors of the nature of the waste and the potential hazards connected with it prior to such individuals' employment in connection with the Work and shall see that all appropriate safety and handling precautions are followed to insure the safety and well being of persons, property and the environment in the performance of the Work.

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In witness of their agreement, Contractor and Monsanto, for themselves, their successors, executors, administrators and assigns, have executed this Contract effective as of the date set forth at its beginning.

MONSANTO COMPANY

O.H. Materials Company

By

Anton W. Wasser
Anton W. Wasser

By

Title Purchasing Supervisor

Title

C16673

SCOPE OF WORK

(Description of Work to be performed under the Contract)

Provide Supervision, Labor and materials to clean and decontaminate interior building surfaces and equipment of 2,3,7,8-TCDD (dioxin) as directed by Monsanto's Plant Representative.

Contractor will be responsible for providing and ensuring the use of personal hygiene and/or protective equipment for his employees and for decontaminating such equipment used on the job site.

All contaminated materials, washings or wastes collected during the work will be placed into drums provided by Monsanto and left at the job site.

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O. H. MATERIALS CO.
P. O. Box 551
Findlay, Ohio 45839

(Employee's
Name &
Address)

Dear Mr. _____

Pursuant to a Contract executed with Monsanto Company ("Monsanto"), this firm ("Contractor") has performed and will perform certain waste removal and related services ("Work") for Monsanto.

Contractor will consider assigning you or has assigned you to engage in portions of the Work and, under the Contract with Monsanto, if you are so assigned, you may be granted access to or have the opportunity to obtain or develop certain information which Monsanto wishes to keep confidential. In consideration of your employment or continued employment by Contractor, your being considered for an assignment to the Work, your being assigned to the Work, or your continued assignment to the Work, and your being granted access to or having the opportunity to obtain or develop any of said information, you hereby agree with Contractor and Monsanto as follows:

1.0 That since said information will be available to you solely by reason of the confidential relationship involved, you shall treat and maintain as Monsanto's confidential property and shall not use or disclose to others during or subsequent to the performance of the Work (except as may be necessary in the performance of the Work and then only on a confidential basis satisfactory to Monsanto), any information (including any technical information, experience or data) regarding Monsanto's plans, programs, plants, processes, products, wastes, costs, equipment, operations or customers (including any similar information of third parties that Monsanto has received or may receive) which may come within your knowledge or which you may develop, whether solely or jointly, in the performance of or in connection with the Work, without in each instance securing the prior written approval of Monsanto. Such information described in this paragraph 1.0 is sometimes hereinafter referred to as "Monsanto Information."

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2.0 That the provisions of paragraph 1.0 hereof, shall not prevent you from disclosing to others or using in any manner Monsanto information which you can show: (a) has been published and has become part of the public domain other than by acts or omissions of Contractor, any of his officers, employees or you; (b) has been lawfully furnished or made known to Contractor or you by third parties (other than officers and employees of Contractor and other than those acting directly or indirectly for or on behalf of Monsanto or Contractor) without restriction on Contractor or you as to its disclosure or use; or (c) was in Contractor's or your possession prior to disclosure by Monsanto to Contractor or you and was not acquired by Contractor, any of his officers, employees, or you directly or indirectly from Monsanto or its employees or its agents. For purposes of this paragraph 2.0, no Monsanto Information shall be deemed to be within the scope of the foregoing exclusions merely because such Monsanto Information is embraced by more general information which falls within the scope of such exclusions.

3.0 That all Work is and shall be the property of Monsanto and that all drawings, tracings, specifications, calculations, data, memoranda, notes and other information or material (including all copies and excerpts thereof) pertaining to the Work or containing Monsanto Information, which may come into your possession or custody or be compiled or prepared by you at any time during the term of the aforesaid Contract with Monsanto, shall be the property of Monsanto and shall be delivered to Monsanto (directly or through Contractor) at the completion of your assignment on the Work or at any time upon request by Monsanto or Contractor.

4.0 That any invention or discovery relating to the Work on which you are directly or indirectly assigned to or involved in, including improvements and modifications, whether or not patentable, applications for Letters Patent covering said invention or discovery and Letters Patent issuing thereon, which invention or discovery may be made and/or conceived by you, either solely or jointly, during the period or periods of your assignment to or involvement in the Work and during a period of one (1) year thereafter, shall be the property of Monsanto, shall be promptly disclosed to Contractor and Monsanto, and shall be assigned to Monsanto without further compensation being paid by Monsanto.

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5.0 That you shall do all acts and execute all documents reasonably required to convey to Monsanto and record in Monsanto the entire right, title and interest in and to any such invention or discovery, patent applications based thereon and Letters Patent issuing thereon, and to enable Monsanto, at Monsanto's expense, to apply for, prosecute and obtain Letters Patent in the United States and foreign countries, and to protect and enforce said patents in proceedings and litigation in connection therewith.

6.0 That your obligations under this agreement are for the benefit of Monsanto as well as Contractor; that said obligations shall remain in full force and effect even though you may leave the employ of Contractor for any reason whatsoever; that if Monsanto so elects, it may seek enforcement of this agreement independently of Contractor; and that this agreement is effective the date you were first assigned to the Work or the date set forth below, whichever is earlier.

You are free to refuse to continue your assignment on the Work or to refuse future assignments on the Work; however, you cannot participate in the Work or continue to participate in the Work unless you enter into this agreement, and any refusal to continue an assignment on the Work shall not relieve you of any obligation set out in any prior agreement between Monsanto and you and/or Contractor.

If you accept the above terms and agree to be bound by them, please sign the acceptance clause below at the place indicated.

Sincerely yours,

O. H. MATERIALS CO.

MONSANTO COMPANY

By _____

ACCEPTED AND AGREED TO:

(Signature)

Dated _____

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Safety and Hygiene

The work covered under this contract involves dust and other waste materials which contain small amounts of tetrachloro-dibenzo-p-dioxin (sometimes referred to as "dioxin".) Due to the possibility of exposure to this chemical, special safety precautions and equipment are REQUIRED.

Contractor shall hold a meeting at the plant to review the special handling, hygiene and safety requirements with any and all persons involved in this decontamination, whether working directly or indirectly for the contractor or hired by the contractor prior to the commencement of the work described in this work package. Contractor shall notify the Monsanto Representative of the time and place of the contractor safety and hygiene meeting.

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