

AGREEMENT
between
THE CITY OF COCONUT CREEK
and
EES DESIGN STUDIO, LLC.
for
ART FABRICATION, ENGINEERING, AND INSTALLATION

THIS AGREEMENT is made and entered into this _____ day of _____, 2025, by and between the City of Coconut Creek, a municipal corporation, with principal offices located at 4800 West Copans Road, Coconut Creek, FL 33063 (the "City") and EES Design Studio, LLC. a Florida limited liability company with principal offices located at 2801 NW 55th Court, #5E, Fort Lauderdale, Florida 33309 (the "Contractor") to provide Art Fabrication, Engineering, and Installation as specified in Estimate No. 25040-1.

Now therefore, in exchange for good and sufficient consideration, the parties hereby agree to the following terms and conditions:

1) The Contract Documents

The contract documents consist of this Agreement, EES Design Studio Estimate No. 25040-1 attached hereto as Exhibit "2", and any subsequent duly executed amendments thereto. These contract documents form the Agreement, and all are incorporated herein as if set forth in full. In the event of a conflict between the aforementioned documents, any duly executed amendment to this Agreement will control, followed by this Agreement for the fabrication, engineering, and installation of the Sculpture.

2) The Work/Services

The Contractor must perform all work for the City required by the contract documents and as set forth below:

- a)** Contractor will furnish all labor, materials, and equipment necessary as indicated in estimate No. 25040-1, for fabrication, engineering, foundation work, and installation of Sculpture V2 (five children) by Marit Meisler, (the "Art"), installation to be complete as provided in Paragraph 5), "Timeline".
- b)** Contractor must supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Contractor must comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Contractor must at all times have a competent field supervisor on the job site to enforce these policies and procedures at the Contractor's expense.
- c)** Contractor will provide the City with seventy-two (72) hours written notice prior to the beginning of work under this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.
- d)** Contractor must comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein. The Contractor further warrants that there has been no violation of copyrights or patent rights either in the United States of America or in foreign countries in connection with the work of the contract.

- e) Contractor warrants to the City that all goods and materials furnished under the contract will be new unless otherwise specified and that Contractor possesses good, clear, and marketable title to said goods and there are no pending liens, claims, or encumbrances whatsoever against said goods. All work not conforming to these requirements, including substitutions not properly approved and authorized may be considered defective. Contractor further warrants that all goods, materials and workmanship furnished, whether furnished by the Contractor or its subcontractors and suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted. Last, Contractor warrants all material and workmanship for a minimum of one (1) year from date of project completion and acceptance by the City. If within one (1) year after acceptance by the City, or within such larger period of time as may be prescribed by law any of the work is found to be defective or not in accordance with the contract documents, the Contractor will after receipt of a written notice from the City to do so, promptly correct the work.

3) Changes in the Work

- a) Without invalidating the Agreement, the City may, at any time or from time to time, order additions, deletions or revisions in the work; these must be authorized by Change Orders. Upon receipt of a Change Order approved in writing by the Contract Administrator, the Contractor will proceed with the work involved. All such work must be performed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price, payment must be adjusted or pro-rated by the unit price of the pay items in the Contract or based on mutually accepted price if there are no unit prices. If applicable, an extension or shortening of the contract time may be granted by the City depending upon the changes in the scope of work. A Change Order signed by the Contractor indicates his/her agreement therewith.
- b) Additional work performed by the Contractor without written authorization and signed Change Order will not entitle him/her to an increase in the Contract Price or an extension of the contract time.
- c) It is the Contractor's responsibility to notify his/her surety of any changes affecting the general scope of the work or change in the Contract Price and the amount of the applicable bonds must be adjusted accordingly. The Contractor must furnish proof of such an adjustment to the City.
- d) In no case will denial of a change order serve as grounds for Contractor to delay or suspend work, unless directed otherwise in writing by City. City's denial or failure to act upon a change order will not constitute grounds for suspension of work unless City directs otherwise in writing.
- e) No claim for damages or any claim other than for an extension of time will be made or asserted against the City by reason of any delays. The Contractor will not be entitled to an increase in the contract sum or payment or compensation of any kind from the City for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs for acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance was avoidable or unavoidable; provided however, that this provision will not preclude recovery of damages by the Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of the City or its agents. Otherwise, the Contractor will be entitled only to extensions of the contract time as the sole and exclusive remedy for such resulting delay in accordance with and to the extent provided for herein.
- f) In the event the City and Contractor are unable to come to an agreement for a change order, the City reserves the right to assume the ownership of the scope of work under that change order and complete the work either by its own work-force or its own separate

Contractor. The City would be responsible and liable for the work completed by its workforce or its Contractor only. The remaining project will still be the responsibility of the Contractor along with any liability associated with it. In the event City chooses to assume ownership of any portion of the scope of work, Contractor must make every reasonable effort to accommodate City's workforce or City's own separate Contractor in the performance of such scope.

4) Payment Amount

Contractor will perform contract requirements with pricing pursuant to the estimate No. 25040-1, not to exceed \$85,000.00. Which sum includes all related supplies and materials for fabrication, engineering, installation, and site prep as provided in estimate No. 25040-1 and shall include any required permitting and sculpture insurance through the time of acceptance by City. Contractor shall be paid in accordance with the Milestone Payment Schedule as set forth below:

- a) Fifty percent (50%) deposit to commence work;
- b) Thirty-five percent (35%) of the Agreement price paid upon the City's written acceptance of the completion of the Art fabrication; and
- c) Fifteen percent (15%) of the Agreement price paid upon delivery, installation, final acceptance of the installed Art and provision of a bill of sale for the Art.

5) Timeline

The parties agree time is of the essence in the performance of this Agreement. The following deadlines apply.

- a) **Final Engineering Designs provided to City: October 15, 2025**
- b) **Final Fabrication of Art: November 12, 2025**
- c) **Completed Installation of Art Project: December 17, 2025**

6) Contract Term

The term of this Agreement shall commence on the date written above and terminate when the Art Fabrication, Engineering, and Installation has been completely installed at the project site, inspected and a bill of sale accepted by the City.

7) Contract Extension Beyond the Term

In the event services are scheduled to end because of the expiration of this contract, the Contractor must continue the service upon the request of the City's Contract Administrator. The extension period will not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Contractor will be compensated for the service at the rate(s) in effect when the City invokes this extension clause.

8) Conditions for Emergency/Hurricane or Disaster

It is hereby made a part of this agreement that before, during and after a public emergency, disaster, hurricane, flood, pandemic or other substantial loss that the City of Coconut Creek will 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 which threatens public safety and health, as determined by the City Manager. Contractor agrees to rent/sell/lease all goods and services to the City or other governmental entities, as opposed to a private citizen or corporation, on a first priority basis. The City expects to pay a fair and reasonable price for all products/services in the event of a disaster, pandemic, emergency or hurricane. Awarded Contractor must furnish a twenty-four (24) hour telephone number in the event of such an emergency.

9) Termination

a) Termination for Cause: Immediate

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor, terminate this contract effective immediately upon receipt of notice as provided in this Agreement. The notice for immediate termination must state the date of termination and Contractor must discontinue all work under this contract on that date. In the event of immediate termination, the City will have all legal and equitable remedies available to it, and may hold the Contractor liable for any and all damages sustained by the City arising out of such default, including but not limited to costs of procurement and cover.

b) Termination for Cause: Time to Correct

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor consistent with the "Notice" provisions of this Agreement, set forth the reason(s) for said termination and state a reasonable time-frame, not to exceed five (5) calendar days, for the Contractor to correct the conditions to the satisfaction of the City. In the event the Contractor has failed to correct the conditions(s) of the default or the default is not remedied to the satisfaction and approval of the City within the time-frame prescribed, the City may terminate the contract effective immediately as provided above. If Contractor requests a hearing before the City Manager within the time-frame prescribed for correction, the City Manager may extend such time for correction to accommodate such hearing. Notwithstanding the above, the City will have all legal and equitable remedies available to it, including, but not limited to termination of the Contract in which case the Contractor will be liable for any and all damages arising from the default and breach of the contract.

c) Termination for Convenience of City

Upon thirty (30) calendar days written notice to the Contractor as provided in the "Notice" provisions of this Agreement, the City may without cause and without prejudice to any other right or remedy, terminate the contract for the City's convenience whenever the City determines that such termination is in the best interest of the City. Where the contract is terminated for the convenience of the City the notice of termination to the Contractor must state that the contract is being terminated for the convenience of the City under the termination clause and the extent of termination. The Contractor must discontinue all work on the appointed last day of service.

10) Agreement Subject to Funding

This Agreement will remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Coconut Creek in the annual budget for each fiscal year of this Agreement, and is subject to termination without any penalty due to lack of funding.

11) Remedies

a) Damages

The City reserves the right to recover any ascertainable actual damages incurred as a result of the failure of the Contractor to perform in accordance with the requirements of this Agreement, or for losses sustained by the City resultant from the Contractor's failure to perform in accordance with the requirements of this Agreement.

b) Correction of Work

If, in the judgment of the City, work provided by the Contractor does not conform to the requirements of this Agreement, or if the work exhibits poor workmanship, the City reserves the right to require that the Contractor correct all deficiencies in the work to bring the work into conformance without additional cost to the City, and / or replace any personnel who fail to perform in accordance with the requirements of this Agreement. The City is the sole judge of non-conformance and the quality of workmanship.

- 12) Waiver of Liens**
Prior to final payment of the Contract Sum, a final waiver of lien must be submitted by all suppliers, subcontractors, and/or Contractors who worked on the project that is the subject of this Agreement.
- 13) Warranties**
- a) Warranty of Title**
Contractor warrants to the City that all goods and materials furnished under the contract will be new unless otherwise specified and that Contractor possesses good, clear, and marketable title to said goods and there are no pending liens, claims, or encumbrances whatsoever against said goods. All work not conforming to these requirements, including substitutions not properly approved and authorized may be considered defective.
 - b) Warranty of Specifications**
Contractor warrants that all goods, materials and workmanship furnished, whether furnished by the Contractor or its subcontractors and suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted.
 - c) Warranty of Merchantability**
Contractor warrants all material and workmanship for a minimum of one (1) year from date of project completion and acceptance by the City. If within one (1) year after acceptance by the City, or within such larger period of time as may be prescribed by law any of the work is found to be defective or not in accordance with the contract documents, the Contractor must after receipt of a written notice from the City to do so, promptly correct the work unless the City has previously given the Contractor a written acceptance of such condition.
- 14) Art Ownership**
The Art is copyrighted and Contractor has no ownership interest in the design or any models, drawings, plans or fabrication of the design. Replication of the Art outside the scope of this Agreement is not permitted. All Art, designs, drawings, renderings, models, photographs, digital files, fabrication, installation or other creative works produced, commissioned, or acquired by or for the City of Coconut Creek in connection with this Agreement shall be deemed the sole and exclusive property of the City of Coconut Creek. The Contractor hereby irrevocably assigns and transfers to the City any and all rights, title, and interest, including but not limited to copyright, reproduction rights, and intellectual property rights, in and to such Art, unless otherwise expressly stated in writing and approved by the City.
- Title to the Art shall vest in the City upon completion of the Installation. The City may reproduce images of the Art, for non-commercial use, including but not limited to public information, educational and promotional purposes, without verbal or written consent of the Contractor.
- a)** Contractor hereby waives any rights under 17 U.S.C. 106A, and the Artists Rights Act of 1990, and any successor act.
 - b)** The Art will become an integral part of the landscape and installation and integration of the Art may subject the Art to future removal, destruction, or other modifications by reason of its removal from the landscape, or the renovation, destruction or redevelopment of the landscape or property upon which it is installed, and Contractor consents to such incorporation. Any such future renovations may be completed at the City's sole discretion without the consent of Artist, regardless of any resulting alteration or destruction of Art
- 15) Insurance Requirements**
The Contractor must assume full responsibility and expense to obtain all necessary insurance as

required by the City of Coconut Creek. The Contractor (or any subcontractor) must not commence work under this contract until they have obtained all insurance required under this section and have supplied the City with evidence of such coverage in the form of an insurance certificate and endorsement. The certificate must name as additional insured the City of Coconut Creek and its Officers, Agents, Employees and Commission Members; and that such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that insurance applies separately to each insured against whom claims are made or suit is brought, but the inclusion of more than one insured must not operate to increase the insurer's limit of liability. All insurance policies herein required of the Contractor must be written by a company with a A.M. Best rating of A-VII or better that is duly authorized and licensed to do business in the State of Florida and must be executed by agents, thereof that are duly licensed as agents in Florida. The Contractor will ensure that all subcontractors will comply with the above guidelines and will maintain the necessary coverage throughout the term of this Agreement. Policies must be "Occurrence" form. Each carrier will give the City sixty (60) days' notice prior to cancellation. Throughout the term of this contract, Contractor and/or any and all subcontractors or anyone directly or indirectly employed by either of them must maintain in force, at all times, insurance as follows:

a) Workers' Compensation

If the Contractor is required to go on to City of Coconut Creek property to perform work or services as a result of this contract, it must have the statutory limits of coverage to apply for all employees in compliance with all applicable State of Florida and federal laws. The policy must include Employers Liability with a limit of \$100,000.00 each accident. The Contractor's Worker's Compensation carrier will provide a Waiver of Subrogation to the City. The Contractor will be responsible for the payment of all deductibles and self-insured retentions. The City requires that the Contractor purchase a bond to cover the full amount of the deductible or self-insured retention.

b) General Liability

Commercial General Liability insurance with limits not less than \$1,000,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause. This policy of insurance must be written in an "occurrence" based format.

c) Automobile Liability

Comprehensive or Business Automobile Liability insurance with limits not less than \$500,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage's for owned, hired, and non-owned vehicles and/or equipment as applicable. This policy of insurance must be written in an "occurrence" based format.

d) Professional Liability / Errors and Omissions Coverage (If Applicable)

If the Contractor is to provide professional services under this Agreement, the Contractor must provide the City with evidence of Professional Liability insurance with, at a minimum of \$1,000,000.00 per occurrence and in the aggregate. "Claims-Made" forms are acceptable for Professional Liability insurance. Coverage must include all claims arising out of the Contractor's operations or premises, any person directly or indirectly employed by the Contractor, and the Contractor's obligations under indemnification under this contract. Contractor acknowledges that the City is relying on the competence of the Contractor to design the project to meet its functional intent. If it is determined during construction of the project that changes must be made due to Contractor's negligent errors and omissions, Contractor must promptly rectify them at no cost to City and will be responsible for additional costs, if any, of the project to the proportional extent caused by such negligent errors or omissions.

e) Builder's Risk Insurance (If Applicable)

Builder's Risk insurance is required in an amount not less than the replacement cost for the construction of the work. Coverage must be "ALL RISK" coverage for one hundred percent (100%) of the completed value. The City reserves the right to require higher limits depending upon the scope of work under this agreement.

16) Indemnification and Hold Harmless

The parties agree that one percent (1%) of the total compensation paid to Contractor for the work or services under this Agreement constitutes specific consideration to Contractor for the indemnification to be provided under the Agreement. The Contractor must indemnify and hold harmless the City, its past/present/future elected and appointed officials, employees, and agents from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees) in connection with violations of copyrighted or trademarked materials used by Contractor, loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the operations of the Contractor or its officers, employees, agents, subcontractors, or independent Contractors, excepting only such loss of life, bodily or personal injury, or property damage solely attributable to the gross negligence or willful misconduct of the City or its elected or appointed officials and employees. In any and all claims against the City, or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph is not limited in any way by any limitation on this amount or type of damages compensation or benefits payable by or for the Contractor or any subcontractor under Workers' Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts. Nothing contained herein is intended, nor may it be construed, to waive City's rights and immunities under the common law or Section 768.28, Florida Statutes, as amended from time to time; nor will anything included herein be construed as consent to be sued by any third parties in any matter arising out of this Agreement. To the extent considered necessary by the Contract Administrator and the City Attorney, any sums due Contractor under this Agreement may be retained by the City until all of the City's claims subject to this indemnification obligation have been settled or otherwise resolved, and any amount withheld is not subject to payment of interest by the City. The above provisions will survive the termination or expiration of this Agreement and will pertain to any occurrence during the term of this Agreement, even though the claim may be made after the termination or expiration hereof.

17) Anti-Discrimination

That Contractor for itself, its personal representatives, successors in interests, assigns, subcontractors, and sub-lessees, as a part of the consideration hereof hereby covenants and agrees that:

- a)** No person on the ground of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity, expression or veteran or service member status be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of or performance of services described herein; and
- b)** No employee or applicant for employment on the ground of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, gender identity or expression, or veteran or service member status will be discriminated against during the course of employment or application for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to performance of this Agreement.

18) Discriminatory Vendor List

Contractor hereby acknowledges its continuous duty to disclose to the City if the Contractor or any of its affiliates, as defined by Section 287.134(1)(a), Florida Statutes, are placed on the Discriminatory Vendor List. Pursuant to Section 287.134(2)(a), Florida Statutes: "An entity or affiliate who has been placed on the discriminatory vendor list 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, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity."

19) Independent Contractor

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the Contractor is an independent contractor under this Agreement and not the City's employee for any purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Worker's Compensation Act, and the State Unemployment Insurance law. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out Contractor's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement will be those of Contractor, which policies of Contractor will not conflict with City, State, or United States policies, rules or regulations relating to the use of Contractor's funds provided for herein. The Contractor agrees that it is a separate and independent enterprise from the City, that it had full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement must not be construed as creating any joint employment relationship between the Contractor and the City and the City will not be liable for any obligation incurred by Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

20) Assignment and Subcontracting

Contractor must not transfer or assign the performance required by this Agreement without the prior written consent of the City Contract Administrator. This Agreement, or any portion thereof, must not be subcontracted without the prior written consent of the City nor may the Contractor assign any monies due or to become due to him or her, without the previous written consent of the City Contract Administrator.

21) Disentanglement

Contractor will complete the transition of any terminated work from Contractor and its subcontractors to City and/or any replacement providers City designates (collectively, the "Replacement Provider"), without causing any interruption of or adverse impact on the work, any other services and/or services provided by Third Parties (the "Disentanglement"). Without limiting the aforementioned obligations, Contractor will:

- a) Cooperate by promptly taking all steps required to assist City in completing the Disentanglement related to the work it had previously performed.
- b) Provide all information regarding the work that these parties will need to perform the Disentanglement.
- c) Promptly and orderly conclude all work as directed. This may include the documentation of work in progress and other measures to provide an orderly transition as set forth in Labor Harmony.

22) Labor Harmony

Contractor agrees that all labor employed by Contractor, its agents or subcontractors for work on

City property must be in harmony with all other labor being used by City or other contractors working on City's property. Contractor agrees to give City immediate notice of any threatened or actual dispute and will provide assistance as determined necessary by City to resolve any such dispute. Contractor, its agents or subcontractors, will remove from City's property any person objected to by City in association with the work

23) Gratuities and Kickbacks

a) Gratuities

It is unethical for any person to offer, give, or agree to give any employee or for any employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, audit, or in any other advisory capacity in any proceeding or application, request for ruling, determination claim or controversy, or other particular matter, pertaining to any program requirement or an Agreement or subcontract, or to any solicitation or proposal therefore.

b) Kickbacks

It must be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a Sub-contractor under a Contract to Contractor or higher tier sub-contractor any person associated therewith, as an inducement of the award of a subcontract or order.

c) Contract Clause

The prohibition against gratuities and kickbacks prescribed in this section must be conspicuously set forth in every Contract and subcontract and solicitation therefore.

24) Notice

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the following addresses. Notice will be deemed received by the party for whom it is intended after the USPS certified mail process is completed.

CITY

City Manager
City of Coconut Creek
4800 West Copans Road
Coconut Creek, FL 33063
With a copy to the City Attorney at the same address.

CONTRACTOR

Sarah Figueredo
EES Design Studio, LLC.
2801 NW 55th Court, #5E,
Fort Lauderdale, Florida 33309
Phone: 954-541-2660
Email: info@eesdesignstudio.com
Web Address: www.eesdesignstudio.com

And

Maxanne Loew
1724 SW 2nd Street
Fort Lauderdale, FL 33312

25) Choice of Law and Venue

The parties hereby agree that the only laws that apply to this Agreement are those of the State of Florida and U.S. Government. The parties waive the privilege of venue and agree that all litigation between them in the state courts will take place exclusively in the Seventeenth Judicial Circuit in and for Broward County, Florida and that all litigation between them in the federal courts will take place exclusively in the United States District Court or United States Bankruptcy Court for the Southern District of Florida.

26) WAIVER OF JURY TRIAL

CONTRACTOR AND THE CITY EACH HEREBY EXPRESSLY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY CIVIL LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND/OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

27) Public Records

City is a public agency subject to Chapter 119, Florida Statutes, as amended from time to time. To the extent Contractor is a Contractor acting on behalf of the City pursuant to Section 119.0701, Florida Statutes, as amended from time to time, Contractor must comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with state law, Contractor agrees to:

- a) Keep and maintain all records that ordinarily and necessarily would be required by the City in order to perform the services.
- 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 copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c) Ensure that public records that are exempt, or confidential and exempt, from public records disclosure 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 completion of the services within this Agreement, at no cost, either transfer 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 services, the Contractor must 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 services, the Contractor must 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.

- e) **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 AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774, PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063.**

If Contractor does not comply with this section, the City will enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.

28) Trade Secrets and Proprietary Confidential Business Information

Documents submitted by Contractor which constitute trade secrets as defined in Sections 812.081 and 688.002, Florida Statutes, as amended from time to time, or proprietary confidential business information when held by the City as a utility owner, consistent with Section 119.0713(5), Florida Statutes, as amended from time to time, and which are clearly marked or stamped as confidential by the Contractor at the time of submission to the City, will not be subject to public access. However, should a requestor of public records challenge Contractor's interpretation of the term "trade secrets" or "proprietary confidential business information," within five (5) calendar days of such challenge, Contractor must provide a separate written affidavit that includes an indemnification and release guarantee, as approved by the City Attorney or designee, to the City to support its claim that the alleged trade secrets or proprietary confidential business information actually constitutes same as defined by law. Contractor must demonstrate the need for confidentiality of the documentation by showing a business advantage or an opportunity to obtain an advantage if the documentation was released. Otherwise, Contractor is required to timely seek a protective order in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County to prevent the City's release of the requested records.

29) Audit Rights

The City reserves the right to audit the records of the Contractor for the commodities and/or services provided under the contract at any time during the performance and term of the contract and for a period of five (5) years after completion and acceptance by the City. If required by the City, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the City. The Contractor must allow the City to inspect, examine and review the records of the Contractor in relation to this contract at any and all times during normal business hours during the term of the contract.

30) Third Party Beneficiaries

Neither Contractor nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party is or will be entitled to assert a right or claim against either of them based upon this Agreement.

31) Uncontrollable Circumstances ("Force Majeure")

As used herein, "Force Majeure" means the occurrence of any event that prevents or delays the performance by either party of its obligations hereunder which are beyond the reasonable control of the non-performing party. Examples of "Force Majeure" include, but are not limited to, acts of God, natural disasters, or emergency governmental action. To invoke this paragraph, immediate written notice, consistent with the "Notice" provisions of this Agreement, must be sent by the non-performing party describing the circumstances constituting force majeure and proof that the non-performance or delay of performance is a direct and reasonable result of such event(s). The City reserves its right to challenge the invocation by the Contractor within five (5) calendar days of

receipt of said notice, in such case uninterrupted performance is required. However, in the event the invocation is accepted by the City, the Contractor must take all reasonable measures to mitigate any and all resulting damages, costs, delays, or disruptions to the Contractor's performance requirements under this Agreement. All obligations must resume when the circumstances of such event(s) have subsided, or other arrangements are made pursuant to a written amendment to this Agreement.

32) Drug-Free Workplace Programs

Preference shall be given to businesses with Drug-Free Workplace Programs. Whenever two (2) or more bids which are equal with respect to price, quality and service are received by the City for the procurement of commodities or contractual services, a bid received from a business that completes the attached Drug-Free Workplace form certifying that it is a Drug-Free Workplace shall be given preference in the award process.

33) Public Entity Crimes Statement

Pursuant to Section 287.133(2)(a), Florida Statutes, as amended from time to time, Contractor hereby certifies that neither it nor its affiliate(s) have been placed on the convicted vendor list following a conviction for a public entity crime. If placed on that list, Contractor must notify the City immediately and is prohibited from providing any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant 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., as amended from time to time, for Category TWO (\$35,000) as may be amended, for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

34) Foreign Gifts and Contracts

The Contractor must comply with any applicable disclosure requirements in Section 286.101, Florida Statutes. Pursuant to Section 286.101(7)(b), Florida Statutes: "In addition to any fine assessed under [§ 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision must automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission [Governor and Cabinet per §14.202, Florida Statutes] for good cause."

35) Scrutinized Companies and Countries of Concern per Sections 287.135, 215.473, & 287.138, Florida Statutes

Contractor hereby certifies that it: a) has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel; b) has not been placed on the Scrutinized Companies with Activities in Sudan List nor the Scrutinized Companies with Activities in the Iran Terrorism Sectors List (formerly the Iran Petroleum Energy Sector List); and c) has not been engaged in business operations in Cuba or Syria. If City determines that Contractor has falsely certified facts under this paragraph, or if Contractor is found to have been placed on a list created pursuant to Section 215.473, Florida Statutes, as amended, or is engaged in a boycott of Israel after the execution of this Agreement, City will have all rights and remedies to terminate this Agreement consistent with Section 287.135, Florida Statutes, as amended. The City reserves all rights to waive certain requirements of this paragraph on a case-by-case exception basis pursuant to Section 287.135, Florida Statutes, as amended. Beginning January 1, 2024, the City must not enter into a contract that grants access to an individual's personal identifying information to any Foreign Country of Concern such as: People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, unless the Contractor provides the City with an affidavit signed by an authorized representative of the Contractor, under penalty of perjury, attesting that the Contractor does not meet any of the criteria in subparagraphs (2)(a)-(c) of Section 287.138, Florida Statutes, as may be amended. Beginning January 1, 2025, the City

must not extend or renew any contract that grants access to an individual's personal identifying information unless the Contractor provides the City with an affidavit signed by an authorized representative of the Contractor, under penalty of perjury, attesting that the Contractor does not meet any of the criteria in subparagraphs (2)(a)-(c) of Section 287.138, Florida Statutes, as may be amended. Violations of this Section will result in termination of this Agreement and may result in administrative sanctions and penalties by the Office of the Attorney General of the State of Florida.

_____ is not owned by the government of a Foreign Country of Concern, is not organized under the laws of nor has its Principal Place of Business in a Foreign Country of Concern, and the government of a Foreign Country of Concern does not have a Controlling Interest in the entity.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: _____

Title:

Signature:

Date:

36) E-Verify Requirements

Effective January 1, 2021, public and private employers, contractors and subcontractors must require registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

- a) All persons employed by Contractor to perform employment duties within Florida during the term of the contract; and
- b) All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Coconut Creek.

By entering into this Agreement, the Contractor becomes 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 may 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.

37) Human Trafficking Affidavit

When an agreement is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty or perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes.

_____ does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled "Human Trafficking". Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: _____

Title: _____

Signature: _____ Date: _____

38) Prohibited Telecommunications Equipment.

Contractor represents and certifies that it and its applicable subcontractors do not and will not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. By executing this Agreement, Contractor represents and certifies that Contractor and its applicable subcontractors must not provide or use such covered telecommunications equipment, system, or services for any scope of work performed for the City for the entire duration of this Agreement. If Contractor is notified of any use or provisions of such covered telecommunications equipment, system, or services by a subcontractor at any tier or by any other source, Contractor must promptly report the information in 40 CFR § 52.204-25(d)(2) to City.

39) Antitrust Violations; Denial or Revocation under Section 287.137, Florida Statutes

Pursuant to Section 287.137, Florida Statutes, as may be amended, a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. By entering this Agreement, Contractor certifies neither it nor its affiliate(s) are on the antitrust violator vendor list at the time of entering this Agreement. False certification under this paragraph or being subsequently added to that list will result in termination of this Agreement, at the option of the City consistent with Section 287.137, Florida Statutes, as amended.

40) Environmental and Social Government and Corporate Activism

Pursuant to Section 287.05701, Florida Statutes, as may be amended, the City cannot give preference to a contractor based on social, political or ideological interests as defined in the statute. Contractor is also prohibited from giving preference to any of its subcontractors based on the above referenced factors. Violations of this Section will result in termination of this Agreement and may result in administrative sanctions and penalties by the Office of the Attorney General of the State of Florida.

41) Merger; Amendment

This Agreement constitutes the entire Agreement between the Contractor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Contractor and authorized designees of the City.

42) Interpretation

The titles and headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this

Agreement include the other gender, and the singular includes the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

43) Joint Preparation

It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and accordingly the rule that a contract will be interpreted strictly against the party preparing same does not apply herein due to the joint contributions of both parties.

44) Severability; Waiver of Provisions

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party will not constitute a waiver of that provision nor will it affect the enforceability of that provision or of the remainder of this Agreement.

45) Signatory Authority

Upon request, the Contractor must provide the City with copies of requisite documentation evidencing that the signatory for Contractor has the authority to enter into this Agreement.

46) Counterparts and Multiple Originals

This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which is hereby deemed to be an original, but all of which, taken together, constitutes one and the same agreement.

[Signatures to Follow]

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: CITY OF COCONUT CREEK, signing through its City Manager or designee, and EES DESIGN STUDIO, LLC, signing by and through its Sarah Figueredo, General Manager who duly authorized to execute same.

CONTRACTOR

ATTEST:

EES Design Studio, LLC.

Company Name

(Corporate Secretary)

Signature of Manager

Date

Type/Print Name of Corporate Secy.

Maxanne H. Loew

Manager

CORPORATE ACKNOWLEDGEMENT

STATE OF _____:

:SS

COUNTY OF _____:

I HEREBY CERTIFY the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2025, by _____ as _____ for _____.

Signature of Notary Public
State of _____ at Large

Print, Type or Stamp

- ☐ Personally known to me or
☐ Produced Identification; Type of I.D. Produced

CITY OF COCONUT CREEK

ATTEST:

Sheila N. Rose, City Manager

Date

Joseph J. Kavanagh
City Clerk

Date

Approved as to form and legal sufficiency:

Terrill C. Pyburn, City Attorney

Date