

AGREEMENT
between
THE CITY OF COCONUT CREEK
and
CROM, LLC
for
RELINING OF HILTON ROAD WATER STORAGE TANK
IFB NO. 05-28-25-11

THIS AGREEMENT is made and entered into this _____ day of _____, 2025 and between the City of Coconut Creek, a municipal corporation, with principal offices located at 4800 West Copans Road, Coconut Creek, FL 33063 ("City") and CROM, LLC, a Florida corporation with principal offices located at 250 SW 36 Terrace, Gainesville, FL 32607 ("Contractor") to provide services as specified in IFB No. 05-28-25-11. Now therefore, in consideration of the mutual covenants hereinafter set forth, the City and Contractor agree as follows:

1. The Contract Documents

The contract documents consist of this Agreement, conditions of the contract (General, Supplementary and other Conditions), drawings, specifications of IFB No. 05-28-25-11, all addenda issued prior to, and all modifications issued after execution of this Agreement and Contractor's response/bid to IFB No. 05-28-25-11. These contract documents form the Agreement, and all are as fully a part of the Agreement if attached to this Agreement or repeated therein.

2. The Work/Service

The Contractor shall perform all work for the City required by the contract documents and IFB No. 05-28-25-11, as set forth below:

- 2.1 Contractor shall furnish all labor, materials, and equipment necessary as indicated in the specifications herein.
- 2.2 Contractor shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Contractor shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Contractor shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the Contractor's expense.
- 2.3 Contractor shall provide the City with seventy-two (72) hours written notice to the Contract Administrator/Project Manager, Robert McDonald, or designee prior to the beginning of work under this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.
- 2.4 Contractor shall 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.

- 2.5 Contractor warrants to the City that 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 not 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

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 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.
- 3.5 Schedule changes not caused by CROM, including, but not limited to delays to the start date additional mobilizations and demobilizations not included in the original price and other delays that impact CROM and cause actual additional costs shall be equitably compensated via change order procedures for time and price.
- 3.6 Differing Conditions: Contractor shall not be liable for differing or changed conditions. In the event such a condition is encountered, which differs materially from those usually encountered or identified by the Contract Documents, Contractor shall be entitled to an equitable adjustment of time and price, per change order procedures, to compensate for any additional actual costs resulting therefrom.
- 3.7 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 work-force 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. Such an act by the City would invalidate any warranty offered by Contractor, since Contractor cannot warrant the City's own work.

4. Contract Amount

The City shall pay the Contractor in current funds for the performance of the work, subject to additions and deductions by Change Order inclusive of labor, equipment, and materials as provided in the Contract Documents, the Contract Sum of Nine Hundred Thirty-Seven Thousand Six Hundred and Zero cents (\$937,600.00). This is inclusive of Add Alternate No. 1 (surface preparation and coating of interior pipes).

5. Contract Term

The contract term commences on the issuance of the Notice to Proceed and concludes upon the final inspection and acceptance of the work by the City, and final payment made by the City to Contractor. As outlined in the Contract Documents, Contractor must complete all obligations within one hundred and five (105) calendar days as stipulated in the Notice to Proceed. Contractor may request, in writing, one (1) extension of that time, no more than thirty (30) days, to be granted in the sole discretion of the City.

6. Uncontrollable Circumstances ("Force Majeure")

6.1 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.

6.2 **Schedule Changes & Delays:** Schedule changes not caused by CROM, including, but not limited to delays to the start date, additional mobilizations and demobilizations not included in the original price and other delays that impact CROM and cause actual additional costs shall be equitably compensated via change order procedures for time and price.

7. Insurance

The Contractor shall provide evidence of insurance as provided in the IFB. Additionally, Contractor shall indemnify and hold the City harmless for any damages resulting from failure of the Contractor to take out and maintain such insurance. Contractor's Liability Insurance policies shall be endorsed to add the City as an additional insured. Contractor shall be responsible for payment of all

deductibles and self-insurance retentions on Contractor's Liability Insurance policies. The required warranty shall be by written Company warranty.

8. Time of Commencement

The work to be performed under this Agreement shall be commenced after execution of the Agreement and not later than thirty (30) days after the date that Contractor receives the Notice to Proceed.

9. Substantial Completion

Contractor must have obtained all necessary permits and construction shall be substantially complete within seventy-five (75) calendar days from issuance of the permits.

10. Final Project Closeout

Final Completion shall be within thirty (30) calendar days from Substantial Completion; meaning that all final documents, submittals, and as-builts shall be submitted to City.

11. Payments

Payments will be made in accordance with contract documents and IFB No. 05-28-25-11. Payment will be made monthly for work that has been completed, inspected and properly invoiced. A retainage of five percent (5%) will be deducted from the monthly payment. Retainage monies will be released upon satisfactory completion and final inspection of the project. All payments by the City shall be in accordance with Florida Prompt Payment laws.

12. 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 reasonable 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, to the extent resulting from, arising out of or occurring in connection with the negligent, reckless, or intentional wrongful operations of the Contractor or its officers, employees, agents, subcontractors, or independent Contractors, per F.S. 725.06, 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.

13. 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:

- 13.1 No person 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 shall 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
- 13.2 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.

14. Independent Contractor

Contractor is an independent Contractor under this Agreement. Personal services provided by the Contractor must be by the employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement will be those of the Contractor.

15. Assignment and Subcontracting

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

16. Gratuities and Kickbacks

16.1 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 requirements or an Agreement or subcontract, or to any solicitation or proposal therefore.

16.2 Kickbacks

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

16.3 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.

17. 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.

CITY

Robert McDonald, Project Manager
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

Cameron Kenyon, Business Development Manager / Robert G. Oyenarte, CEO
CROM, LLC
250 SW 36th Terrace
Gainesville, FL 32607
Phone: 352-372-3436
Fax: 352-372-6209
Email: ckenyon@cromcorp.com
Web Address: www.cromcorp.com

18. 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.

CROM, LLC 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: _____

19. Human Trafficking

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 of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes.

CROM, LLC 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: _____

20. 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."

21. 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. Vendor/Consultant/Contractor acknowledges and agrees to

utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

- 21.1 All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and
- 21.2 All persons (including sub vendors/sub consultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/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.

22. 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 shall take place exclusively in the Seventeenth Judicial Circuit in and for Broward County, Florida and that all litigation between them in the federal courts shall take place exclusively in the United States District Court for the Southern District of Florida.

23. Waiver of Jury Trial

BY ENTERING INTO THIS CONTRACT, EACH OF CONTRACTOR AND THE CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS CONTRACT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS CONTRACT OR SOLICITATION AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL WILL BE LIABLE FOR THE REASONABLE ATTORNEY'S FEES AND COSTS OF THE OTHER PARTY CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS MUST BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

24. Signatory Authority

The Contractor shall provide the City with copies of requisite documentation evidencing that the signatory for Contractor has the authority to enter into this Agreement.

25. Severability; Waiver of Provisions

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such 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 shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

26. 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.

27. 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.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. City of Coconut Creek, through its City Manager or designee and CROM, LLC, signing by and through its Manager, Cameron Kenyon duly authorized to execute same.

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

CONTRACTOR

ATTEST:

CROM, LLC
A Florida Limited Liability Company_____
(Corporate Secretary)_____
Signature of President/Owner_____
Date_____
Type/Print Name of Corporate Secy._____
Type/Print Name of President/Owner

(CORPORATE SEAL)

CORPORATE ACKNOWLEDGEMENT

STATE OF _____

COUNTY OF _____

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 Florida at Large_____
Print, Type or Stamp
Name of Notary Public
☐ Personally known to me or
☐ Produced Identification

Type of I.D. Produced
☐ DID take an oath, or
☐ DID NOT take an oath.