

AGREEMENT

between

THE CITY OF COCONUT CREEK

and

MACEDA CONTRACTORS, LLC

for

**SABAL PINES PARK NEW MAINTENANCE BUILDING AND RENOVATIONS
IFB NO. 02-13-24-11**

THIS AGREEMENT is made and entered into this _____ day of _____, 2024 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 Maceda Contractors, LLC, a Florida corporation with principal offices located at 2800 Glades Circle, #125, Weston, FL 33327 (the "Contractor") to provide services as specified in Sabal Pines Park New Maintenance Building and Renovations pursuant to IFB No. 02-13-24-11.

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, IFB No. 02-13-24-11, and its addenda, and Contractor's bid response to IFB No. 02-13-24-11. These contract documents form the complete Agreement between the parties, and all parts are incorporated herein as if set forth in full. In the event of a conflict between the aforementioned documents, this Agreement will control, followed by the IFB No. 02-13-24-11 and its addenda, and Contractor's bid response to IFB No. 02-13-24-11, in that order.

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 the herein.
- 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 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, agent 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 State of America or in foreign countries in connection with the work of the contract.

3) **Insurance**

Contractor shall obtain at Contractor's expense all necessary insurance in such form and amount as required by the City's Risk Manager before beginning work under this Agreement including, but not limited to, Workers' Compensation, Commercial General Liability, and all other insurance as required by the City, including Professional Liability when appropriate. Contractor shall maintain such insurance in full force and effect during the life of this Agreement. Contractor shall provide to the City's Risk Manager certificates of all insurances required under this section prior to beginning any work under this Agreement. The Contractor shall be responsible for all actions of his subcontractors and shall ensure that all subcontractors comply with the above guidelines, retaining necessary insurance in force, where required, throughout the term of this agreement. 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.

4) **Contract Amount**

Contractor will perform contract requirements for the sum of Nine Hundred Thirty Thousand and One Hundred Dollars and Zero cents (\$930,100.00), this includes the "Base Bid" priced at \$816,100.00 plus "Add Alternates No. 3 (line item 9)" at \$114,000.00, subject only to additions and deductions by formal Change Order(s), as provided in the contract documents.

5) **Contract Term**

The term of this Agreement will commence on the date written on the first page of this Agreement, and naturally terminate upon the completion of all requirements of this Agreement. The work to be performed under this Agreement must be commenced after execution of the Agreement and not later than thirty (30) calendar days after the date that Contractor receives the Notice to Proceed from the City. The work to be performed under this Agreement must be completed within 270 calendar days after Contractor's receipt of the Notice to Proceed.

6) **Payment, Retainage, and Project Closeout Process**

Payments will be tendered within thirty (30) business calendar days of presentation of any approved monthly payment application; however, the City will deduct a retainage of five percent (5%) from each monthly payment application. Retainage monies will be released in accordance with Sections 255.077 and 255.078, Fla. Stat. Within thirty (30) calendar days of reaching beneficial occupancy or use of the construction project, the City's Contract Administrator and Contractor must meet at the construction site to development the list of items and their associated industry-standard cost to complete each item on that list. Contractor will submit the draft punchlist to the Contract Administrator for written approval. No later than thirty (30) calendar days from the receipt of such draft punchlist, the City's Contract Administrator, in his/her discretion, may approve as proposed or modify the punchlist and pricing to create the Final Punchlist required to render complete, satisfactory, and acceptable the construction services defined by this Agreement. Such Final Punchlist will be tendered to Contractor. Within twenty (20) calendar days after developing the list, and after receipt of a proper invoice or payment request, the City must pay Contractor the remaining balance of the contract, including any remaining retainage withheld by City, less an amount equal to 150 percent of the estimated cost to complete the items on the list. Upon completion of all items on the Final Punchlist, Contractor may submit a payment request for all remaining retainage withheld by City. If a good faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the contract, City may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

7) **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.

8) **Indemnification & 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.

9) **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.

10) **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."

11) **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.

12) **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.

13) **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.

14) **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

Fidel Maceda, MGRM
Maceda Contractors, LLC
2800 Glades Circle, #125
Weston, FL 33327
Phone: (954) 744-3625 x1
Fax: (954) 744-3625
Email: fidelmaceda@macedagc.com

15) **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.

16) **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.

17) **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.

18) **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.

19) **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."

20) **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.

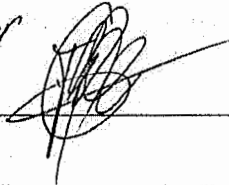
Maceda Contractors, LLC is not owned by the government of a Foreign Country of Concern, is not organized under the laws of nor has its Principal Place of Business in a Foreign Country of Concern, and the government of a Foreign Country of Concern does not have a Controlling Interest in the entity.

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

Printed Name: Fidel Maceda

Title: *Manager Partner*

Signature:



Date:

4/29/2024

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. 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.

22) 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.

23) 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.

24) 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.

25) 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.

26) 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.

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.

28) 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.

[Signatures to follow]

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates next to each signature: City of Coconut Creek, signing through its City Manager or designee, and Maceda Contractors, LLC, signing by and through its Manager, Fidel Maceda, who is duly authorized to execute same.

CITY OF COCONUT CREEK

ATTEST:

Sheila N. Rose, City Manager Date

Joseph J. Kavanagh Date
City Clerk

Approved as to form and legal sufficiency:

Terrill C. Pyburn, City Attorney Date

[Contractor's Signature to Follow]

CONTRACTOR

ATTEST:

Maceda Contractors, LLC
Company Name

[Handwritten Signature]

(Corporate Secretary)

[Handwritten Signature]

Signature of Manager

4-29-2024
Date

LUIS ROLANDO

Type/Print Name of Corporate Secy.

Fidel Maceda

Type/Print Name of President/Owner

(CORPORATE SEAL)

CORPORATE ACKNOWLEDGEMENT

STATE OF Florida :

:SS

COUNTY OF Broward:

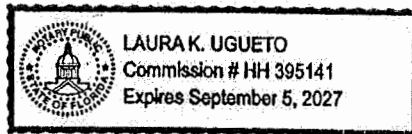
I HEREBY CERTIFY the foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 29 day of April, 2024, by Fidel Maceda as Manager for Maceda Contractors, LLC.

[Handwritten Signature]

Signature of Notary Public

Laura Ugueto

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.