

LICENSE AGREEMENT

THIS AGREEMENT, made this _____ day of _____ 2025, by and between:

POMPANO PARK JV LAND HOLDINGS, LLC, a foreign limited liability company (hereinafter "LICENSOR"),

and

CITY OF POMPANO BEACH, a municipal corporation of the State of Florida (hereinafter "LICENSEE").

WITNESSETH:

WHEREAS, LICENSOR is the owner of the Site located at 777 Isle of Capri Blvd., located in Pompano Beach, Florida (the "Site"); and

WHEREAS, the LICENSEE, through its hired artist, Innovative Sculpture Design, LLC, would like to install a sculpture on the east side of Powerline Road by the south entrance to Harrah's Pompano Beach Casino entitled "Vivacious" that will be located at the Site (the "Project") as part of its approved plan to place public art throughout the City for the benefit of residents and the public; and

WHEREAS, the Site is visible and adjacent to a well-traveled public thorough-fare and is under the exclusive ownership, custody, and control of the LICENSOR; and

WHEREAS, LICENSOR desires to allow LICENSEE to use the Site as heretofore described for the Project.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants and conditions hereinafter contained, it is agreed by the parties hereto as follows:

1. AUTHORIZATION AND LICENSE FEE. LICENSOR hereby grants to LICENSEE and LICENSEE hereby accepts from LICENSOR, a License to install and maintain, at LICENSEE's sole cost, the sculpture entitled *Vicacious* as depicted in the Artist's Design Proposal attached hereto and made a part hereof and labeled as Exhibit 2, at the Site subject to the terms,

covenants, fees, and conditions hereinafter set forth. Said license to maintain the sculpture excludes the maintenance of any exterior lighting necessary for the sculpture at the property Site. Said lighting shall be maintained by LICENSOR.

In exchange, LICENSEE agrees to pay LICENSOR Ten Dollars (\$10.00) as compensation for this License to be paid in full at the time of execution of this agreement, as well as provide the in-kind benefit of installing and maintaining the Project, excluding maintenance of any exterior lighting necessary for the sculpture at the Site, at LICENSEE's sole expense, on LICENSOR's Site, the receipt and sufficiency of which are hereby acknowledged.

Specifically, the license area is depicted and delineated in Exhibit 1 attached hereto and made a part hereof. Neither party to this license agreement has the right to relocate the sculpture from the specific license site area or to change or replace the sculpture at the license site area without a written amendment to this license agreement.

2. **TERM.** The term of Agreement shall commence upon date this Agreement is fully-executed by both parties (the "Effective Date") and continue in duration for twenty (20) years regardless if ownership of the Site changes before expiration of the twenty (20) year period; unless the Site is renovated before the twenty (20) year term limit. Said condition shall be included in writing of any future Purchase and Sales Agreement.

3. **USE OF PREMISES.** LICENSOR hereby grants to LICENSEE and LICENSEE hereby accepts from LICENSOR, a License to use the Site, upon and subject to all of the terms, covenants, fees and conditions hereinafter set forth. LICENSEE specifically agrees the Site shall not be used for any other purpose whatsoever without the written consent of LICENSOR; that LICENSEE shall not permit the Site to be used or occupied in any manner that is inconsistent with the use granted herein; and that LICENSEE shall take good care of the Site, suffer no waste or injury thereto, and take no action which would interfere with the commercial business operating at the Site.

LICENSEE agrees to accept the Site in the condition and state of repair on the date hereof, "as is", and expressly acknowledges and agrees that LICENSOR shall not be obligated to make repairs to, or to perform any work on it.

4. ASSIGNMENT. LICENSEE is not permitted to assign, transfer, convey or otherwise dispose of this License to any other person or corporation without the previous written consent of LICENSOR.

5. RESPONSIBILITIES OF LICENSEE. LICENSEE agrees to maintain the sculpture at all times in a commercially reasonable manner, in accordance with the Artist's maintenance recommendations outlined in Exhibit 2, and repair the Project at its sole cost and expense, except for the maintenance and repair of any exterior lighting necessary for the sculpture project at the Site.

6. RESPONSIBILITIES OF LICENSOR. LICENSOR shall supply the location for the sculpture at the Site; supply the foundation for the sculpture; supply all the exterior lighting necessary for the sculpture project; and continue to display the sculpture entitled "Vivacious" on the east side of Powerline Road by the south entrance to Harrah's Pompano Beach Casino at the Site which is located at 777 Isle of Capri Blvd., in Pompano Beach, Florida, in accordance with the terms of the Agreement in paragraph 2 above.

7. INDEMNIFICATION

To the extent provided by law, LICENSEE shall indemnify, defend, save, and hold harmless LICENSOR and its officials, agents and employees from and against any and all claims, loss, suit actions, damages, liabilities, expenditures, or causes of action, including accidents and injuries to person or property and attorney fees, of any kind pursuant to the placement of the subject sculpture in accordance with this Agreement, even if the claim(s) is/are groundless, false or fraudulent, only up to the statutory limits provided in § 768.28, Florida Statutes.

Nothing contained in this Agreement is intended to serve as a waiver of sovereign

immunity by the LICENSEE as provided for in § 768.28, Florida Statutes, and such indemnification does not constitute consent by either party to be sued by third parties.

LICENSOR shall indemnify, defend, save, and hold harmless the LICENSEE and its officials, agents and employees from and against any and all claims, loss, suit actions, damages, liabilities, expenditures, or causes of action, including accidents and injuries to person or property and attorney fees, of any kind pursuant to the placement of the subject sculpture in accordance with this Agreement, even if said claim(s) is/are groundless, false or fraudulent, up to the same monetary limits provided by LICENSEE for LICENSOR.

8. AMENDMENTS. No modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed by the parties hereto, with the same formality and of equal dignity herewith.

9. SURRENDER UPON TERMINATION. Unless this license agreement is renewed or extended by the parties, LICENSEE shall peaceably surrender this License and, within 180 days of termination, at LICENSEE's sole cost, remove the sculpture and restore the Site to the condition it was in prior to installation of the Project upon written notice as provided for in Section 12 herein.

Should LICENSEE fail to comply with the time limitations set forth in this section, LICENSEE agrees to reimburse LICENSOR for the actual costs incurred in removing and restoring the Site to its prior condition.

10. WAIVER. Failure of either party to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect. None of the conditions, covenants or provisions of this Agreement shall be waived or modified except by the parties hereto in writing.

11. TERMINATION. LICENSEE or LICENSOR may cancel this Agreement for convenience or cause at any time during the term thereof upon sixty (60) days written notice to the other party. LICENSEE shall have the option to remove the sculpture from the site prior to date of termination.

Should any party fail to perform any of its obligation hereunder for a period of thirty (30) days after receipt of written notice of such failures, the non-defaulting party will have the right to terminate this Agreement immediately upon delivery of written notice to the other party

12. NOTICES. Any notice or demand, which under the terms of this Agreement or by any statute or ordinance must be given or made by a party hereto shall be in writing and provided by email, fax or certified mail to the other party as set forth below, or to such other address as such party may from time to time designate by notice.

Addresses of the parties are as follows:

FOR CITY:	City Manager City of Pompano Beach 100 West Atlantic Boulevard Pompano Beach, Florida 33060 Greg.Harrison@copbfl.com 954-786-4601 office 954-786-4504 fax	<u>With a copy to:</u> Laura Atria, Public Art Program Manager 100 West Atlantic Boulevard Pompano Beach, Florida 33060 Laura.Atria@copbfl.com 954-786-4310 office 954-786-4666 fax
FOR POMPANO:	Corey Long Pompano Park JV Land Holdings, LLC 601 E. Pratt Street, 6th Floor Baltimore, MD 21202 312-876-1839	

13. MISCELLANEOUS PROVISION. It is expressly understood and agreed that no real or personal property is leased to LICENSEE and that LICENSEE is a licensee not a lessee.

14. LAWS AND ORDINANCES. LICENSEE shall observe all local, state and federal laws, ordinances and other regulations directly relating its use of the Properties.

15. GOVERNING LAW AND VENUE. The Agreement must be interpreted and construed in accordance with and governed by the laws of the State of Florida. LICENSEE and LICENSOR agree that the exclusive venue for any lawsuit arising from, related to, or in connection

with the Agreement will be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit will be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida.

BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. NO THIRD-PARTY BENEFICIARIES. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intends to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based on this Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

17. NON-DISCRIMINATION. Neither LICENSEE nor LICENSOR shall discriminate against any Person in the performance of duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

18. CONTINUITY. This Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

19. PUBLIC RECORDS.

A. The CITY of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. LICENSOR shall comply with Florida's Public Records Law, as amended. Specifically, LICENSOR shall:

1. Keep and maintain public records required by the LICENSEE in order to perform the service.

2. Upon request from the LICENSEE's custodian of public records, provide the LICENSEE with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LICENSOR does not transfer the records to the LICENSEE.

4. Upon completion of the Agreement, transfer, at no cost to the LICENSEE, all public records in possession of LICENSOR, or keep and maintain public records required by the LICENSEE to perform the service. If LICENSOR transfers all public records to the LICENSEE upon completion of the Agreement, LICENSOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LICENSOR keeps and maintains public records upon completion of the contract, LICENSOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the LICENSEE, upon request from the LICENSEE's custodian of public records in a format that is compatible with the information technology systems of the LICENSEE.

B. Failure of LICENSOR to provide the above-described public records to the LICENSEE within a reasonable time may subject LICENSEE to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF LICENSOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
100 W. Atlantic Blvd., Suite 253
Pompano Beach, Florida 33060
(954) 786-4611
RecordsCustodian@copbfl.com**

20. FORCE MAJEURE. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall economic hardship or lack of funds be considered an event of force majeure.

21. ENTIRE AGREEMENT AND INTERPRETATION. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and both parties agree there are no commitments, agreements or understandings concerning the subject matter herein that are not contained in this Agreement. Accordingly, both parties agree no deviation from the terms herein shall be predicated upon any prior representations or agreements, whether oral or written.

If any provision herein is invalid, it shall be considered deleted from here and shall not invalidate the remaining provisions.

Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Agreement, both LICENSEE and LICENSOR and their respective counsel have had equal opportunity to contribute to and have contributed to its contents, and this Agreement shall not be deemed to be the product of, and therefore construed against either party.

It is further agreed the omission of a term or provision contained in an earlier draft of this Agreement shall have no evidentiary significance regarding the contractual intent of the parties and that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document agreed to and executed by authorized representatives of both parties with the same formality of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

"CITY":

CITY OF POMPANO BEACH

By: _____
REX HARDIN, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

KERVIN ALFRED, CITY CLERK

(SEAL)

Dated: _____

APPROVED AS TO FORM:

MARK E. BERMAN, CITY ATTORNEY

"OWNER":

**POMPANO PARK JV LAND HOLDINGS,
LLC**

Witnesses:

[Signature]

Kevin D. Brava
Print Name

[Signature]

MELISSA FRANK
Print Name

By:

[Signature]

COREY LONG

STATE OF Maryland
COUNTY OF Baltimore city

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this 14th day of October, 2024, by COREY LONG, who is personally known to me or who has produced N/A, as identification.

NOTARY'S SEAL:

[Signature]
NOTARY PUBLIC, STATE OF ~~FLORIDA~~ Maryland

Olivia Wimmer
(Name of Acknowledger Typed, Printed or Stamped)

N/A
Commission Number

**OLIVIA RACHEL WIMMER
NOTARY PUBLIC
HARFORD COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPTEMBER 19, 2027**

JZ/mcm
7/22/2024
L:agr/PompanoPark/LicenseAgr/2024-530