

CONTRACT

THIS CONTRACT (“Contract”), effective as of the ____ day of _____, 2025 (“Effective Date”), is made by and between and the **CITY OF ORLANDO** (“City”), a municipal corporation existing under the laws of the State of Florida, and **TOTOR INC.**, a Delaware corporation, hereinafter referred to as the "Artist". For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

WITNESSETH:

WHEREAS, Artist was selected to design, build and install a custom art sculpture fabricated from durable outdoor-grade materials, suitable for long-term public display and as further described in Exhibit “A” (the “Work”) to be placed at the Orlando Tennis Center in the city of Orlando; and

WHEREAS, as a result of such selection, the City and Artist now desire to enter into this Contract for the Artist to create and provide related art services with respect to such Work.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and given one to the other, the sufficiency of which is hereby acknowledged, the parties agree as follows

I. SCOPE

The Artist is to perform the work as defined in the Scope of Services attached hereto as Exhibit "A" and incorporated by this reference and provide a brief narrative description of the Work. Except as otherwise specified herein, the Artist shall perform the Work in accordance with the “Scope of Services”. No changes to the Work, including any design changes to the proposed artwork, from that set forth in the Scope of Work shall be made without the prior written consent of the City’s Families, Park, and Recreation Director (“FPR Director”) (or her designee). Prior to commencing Work, Artist shall present final renderings to the City of Orlando for approval. All equipment and materials necessary to create and install the Work shall be provided by the Artist and such materials shall be subject to the prior approval of the FPR Director (or her designee) before use. Paint, metal scraps and related waste and wastewater shall be properly disposed of and shall not be dumped upon the ground or into the City’s storm water system. Artist and any persons assisting with the Work shall also comply with any and all other rules, regulations, and directions from the FPR Director (or her designee) related to City

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property.

II. ORDER OF PRECEDENCE

For the resolution and interpretation of any inconsistencies in this Contract and/or the documents attached hereto and included herein by this reference, the precedence of these documents shall be given in the following order:

1. This Contract with any Attachments, including Exhibits, Addendums(s) and Amendment(s);
2. If applicable, negotiated amendments or clarification to the Artist's Scope of Work which have been incorporated by reference into the final Contract;

III. TERM OF CONTRACT

The Contract shall commence as of the Effective Date. Artist shall commence the Work within thirty (30) days of the Effective Date and shall complete all work within One Hundred Twenty (120) days of the Effective Date unless such time is extended by the FPR Director (or her designee).

IV. COMPENSATION

The Artist agrees to perform the Work and provide the services and materials for EIGHTY-ONE THOUSAND DOLLARS (\$81,000), inclusive of all costs for performing the work, including but not limited to all artwork, design, fabrication, materials, installation, delivery, travel, public presentation, meetings with staff as requested, and all other related costs, fees, and expenses.

V. PAYMENT

Payment shall be made to Artist by City in six installments as provided for in the below timeline. Unless otherwise noted, all payments will be made within thirty (30) days of the receipt of an invoice for the applicable milestone payment. All invoices must be accompanied with evidence, acceptable to the City, of completion of said milestone. The final payment shall be contingent on the City's final inspection and acceptance of the Work.

Phase 1 – After Council Approval (February 9, 2026)

Color approval and execution of the signed contract

February 10 – March 30, 2026

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Invoice may be submitted beginning February 10, 2026, with photos confirming completion of Phase 1

Payment timing will vary based on method:

ACH: approximately 2 weeks after invoice submission

Mailed check: approximately 30–45 days after invoice submission

Payment Amount: \$16,000.00

Phase 2 – Preparation, Mold & Cutting

April–May 2026

Invoice and progress photos required upon completion of this phase

Payment Amount: \$15,000.00

Phase 3 – Bronze Casting, Assembly & Patina

June–August 2026

Invoice and progress photos required upon completion of this phase

Payment Amount: \$35,000.00

Phase 4 – Quality Check & Artist Travel

September 2026

Invoice and progress photos required upon completion of this phase

Payment Amount: \$8,000.00

Phase 5 – Final Payment

Due after installation and final inspection

October–December 2026

Final invoice due after installation and inspection

Payment Amount: \$7,000.00

Total project cost: \$81,000.00 USD

VI. GENERAL CONDITIONS

A. Patents and Copyrights

1. The Artist shall pay all royalties and assume all costs arising from the use of any invention, design, process, materials, equipment, product or device in performance of the Work, which is the subject of patent rights or copyrights.

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Artist shall, at its own expense, hold harmless and defend the City against any claim, suit or proceeding brought against the City which is based upon a claim, whether rightful or otherwise, that the Work, or any part thereof, furnished under this Contract, constitutes an infringement or dilution of any patent, trademark, or copyright of the United States, or that the Work infringes any right of publicity or privacy. The Artist shall pay all damages and costs awarded against the City.

2. Except as otherwise provided for herein, the parties agree that the City is and will be the sole and exclusive owner of all right, title, and interest to the Work, including any copyrights and other intellectual property rights therein, in perpetuity throughout the universe. In furtherance of the foregoing, Artist agrees that the Work is a work made for hire for the City as defined in Section 101 of the Copyright Act of 1976. To the extent that the Work does not qualify as a work made for hire, the parties agree that upon completion of the Work, all right, title, and interest including copyrights that Artist may have in and to the Work shall hereby transfer, assign over, and belong solely and exclusively to the City. City shall own such materials and all trademarks and copyrights related thereto, including all renewals and extensions. City shall have the right to obtain trademark and copyright registrations for such materials in its own name or in any name chosen by City, and City shall own all rights of copyright in the materials, as well as in any derivative works and reproductions made there from. Artist shall execute such documentation that the City may reasonably request to cause or evidence any such transfer of ownership of the materials. The City shall have the right to use, photograph, depict, copyright photographs and depictions, publish, distribute, and publicly display the Work and to create, use, copy, reproduce, publish, distribute, and display derivative or other works based on the Work worldwide in all forms of media now known or later developed, including but not limited to Web sites, advertising, media campaigns, direct mail, and educational presentations. The City hereby has permission to identify the Artist by name and use Artist's image in connection with such use of the Work. The City also has the right to photograph and/or otherwise visually record (including but not limited to film, videotape, or other form of motion capture) Artist in relation to the creation of the Work and use such images in connection with the Work and City (and their affiliated entities) activities. Artist understands that the Work will be placed

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outdoors and as such will be subject to wear and tear and other degradation over time. The City retains the unencumbered right at all times to repair, repaint, refinish, reconstruct, close, and the Work as it deems appropriate in its sole discretion, which may result in the destruction, in part or in whole, of the Work. Such rights include, but are not limited to, the right to add information and design elements including but not limited to logos used by the City, phone numbers, web addresses, and the City seal. The above-described work may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). Artist hereby voluntarily, expressly, permanently, and irrevocably waives all rights relating to the relocation, repair, or retirement of the Work and remedies with respect to the Work identified above, and any alterations thereof, under the Visual Artists Rights Act of 1990, 17 U.S.C. §§106A and 113 and under any other federal, state, local, or foreign laws relating to the rights of artists. This section shall survive termination of the Contract.

3. Artist represents that the Work that Artist will produce is original, is Artist’s alone, will not infringe upon any copyright, trademark, or right of publicity or privacy, and that Artist has full authority to make the agreements and representations contained herein.

B. Termination for Default

The performance of Work under this Contract may be terminated by the City’s Chief Procurement Officer on behalf of the City, in whole or in part, in writing, whenever the Chief Procurement Officer shall determine that the Artist has failed to perform the Work within the time specified in the Contract, or if the Artist fails to perform any other provisions of the Contract.

C. Termination for Convenience

The City’s Chief Procurement Officer may terminate the Contract on behalf of the City convenience with advance written notice to the Artist. In the event of such a termination by the City, the City shall be liable for the payment of all Work properly performed prior to the effective date of termination, not to exceed Twenty-Five Thousand Dollars (\$25,000.00), inclusive of all costs for performing the work, including but not limited to all artwork, design, fabrication, materials, installation, delivery, travel, public presentation, meetings with staff as requested, and all other related costs, fees, and expenses.

D. Warranty

The Artist warrants that the Work, including equipment, materials, and finishes, shall conform to the requirements for the Work set forth on Exhibit "A" and be free from material faults, defects, or errors in fabrication and installation for a period of two (2) years from the City's final acceptance of the Work.

This warranty specifically includes the aluminum/bronze material and any and all finishes, ensuring that the exterior surface is resistant to UV degradation, cracking, peeling, or premature weathering under normal outdoor conditions during the warranty period.

This warranty shall not apply to:

Damage caused by misuse, vandalism, accidents, natural disasters, or acts of God;
Repairs or modifications made by the City or third parties not authorized by the Artist; or

Structural or finish failures caused by City-required changes to engineering specifications, installation methods, or site conditions outside the Artist's control.

If the Artist is notified in writing of a covered defect within the warranty period, the Artist shall, at the City's option, either (a) correct such portions of the Work at no additional cost, or (b) refund the portion of the Contract price attributable to the cost to repair or replacement of the defective Work.

E. Time of Completion

The parties understand and agree that time is of the essence in the performance of this Contract. The Artist and the City, respectively, shall not be liable for any loss or damage, resulting from any delay or failure to perform its contractual obligations within the time specified, due to acts of God, actions or regulations by any governmental entity or representative, strikes or other labor trouble, fire, or any other causes, contingencies or circumstances not subject to the Artist's or the City's control, respectively, whether of a similar or dissimilar nature, which prevent or hinder the performance of the Artist's or the City's contractual obligations, respectively. Any such causes of delay, even though existing on the date of the Contract or on the date of the start of Work, shall extend the time of the Artist's or the City's performance respectively, by the length of the delays occasioned thereby, including delays reasonably incident to the resumption of normal Work schedules. However, under such circumstances as described herein,

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the City's Chief Procurement Officer may at his discretion, cancel this Contract for the convenience of the City.

F. Indemnification and Insurance

1. Indemnity

The Artist hereby agrees to indemnify and hold harmless the City, and its officers, agents, and employees, from and against any and all liability, claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions, and costs of actions, including attorneys' fees for trial and on appeal, and for the preparation of same arising out of the Artist's, its officers', agents', and employees' acts, or omissions associated with this Contract.

2. Insurance.

Prior to commencing and at all times during the performance of any work under this Contract, Artist shall maintain the following insurance policies to cover claims, liability and damages arising from Artist's and any of its agents' activities on City property: (i) Worker's Compensation and Employer's Liability Insurance at the statutory amount; and (ii) Commercial General Liability ("CGL") Insurance with combined single limits of One Million Dollars (\$1,000,000.00) per occurrence. The City shall be added as additional insureds to the CGL and such policy shall be considered primary insurance without recourse to or contribution from any similar insurance carried by the City. The Artist shall provide to the City a copy of the applicable CGL insurance certificate(s) prior to any person entering upon the City property related hereto. The Artist shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City and its officers, elected officials, agents and employees and against other contractors and subcontractors.

H. Acceptance

The City will be deemed to have accepted the Work after the City's Chief Procurement Officer is notified by the FPR Director or her designee of her satisfaction that the Work is satisfactorily completed.

I. Correction of Work

The Artist shall promptly correct all Work rejected by the City as failing to

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conform to this Contract. The Artist shall bear all costs of correcting such rejected Work.

J. Right to Audit Records

The City shall be entitled to audit the books and records of Artist or any subcontractor to the extent that such books and records relate to the performance of the contract or any subcontract. The Artist and its subcontractors shall retain and maintain financial records and other records relating to the contract for a period of five (5) years from the date of final payment under the Contract and by the subcontractor for a period of five (5) years from the date of final payment under the subcontract unless a shorter period is otherwise authorized in writing by the City. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 5-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 5-year period, whichever is later.

K. Time is of the Essence

The parties agree that time is of the essence in the completion of the Work called for under this Contract. The Artist agrees that all Work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

L. Extra Work

The City, without invalidating this Contract, may order changes in the Work within the general scope of this Contract consisting of additions, deletions, or other revisions, the Contract price and time being adjusted accordingly. All such changes in the Work ordered by the City shall be authorized by written Addendum to this Contract, and shall be executed under the applicable conditions of the Contract.

N. Familiarity With The Work

The Artist by executing this Contract, acknowledges full understanding of the extent and character of the Work required and the conditions surrounding the performance thereof. The City will not be responsible for any alleged misunderstanding of the Work to be furnished or completed, or any misunderstanding of conditions surrounding the performance thereof. It is understood that the execution of this Contract by the Artist serves as its stated

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commitment to fulfill all the conditions referred to in this Contract.

O. Title and Risk of Loss

The title and risk of loss to the Work shall pass from the Artist to the City upon the City's final acceptance of the Work.

P. Notices.

All notices required or permitted to be given under this Agreement must be in writing and must be delivered to a party at the addresses set forth below (or such other address as may hereafter be designated by such party in writing). The parties' addresses for the delivery of all such notices are as follows:

City: Parks Division Manager
City of Orlando Parks Division
1206 W. Columbia Street
Orlando, Florida 32805

Artist: Totor, Inc.
Attn: Stephane Bolongaro
1200 Brickell Ave., Suite 1960
Miami, Florida 33131

Notices shall be either: (1) personally delivered (including delivery by Federal Express or other courier service) to the addresses set forth above, in which case they shall be deemed delivered on the date of delivery; (2) sent by certified mail, return receipt requested, in which case they shall be deemed delivered on the date shown on the receipt unless delivery is refused or intentionally delayed by the addressee, in which event they shall be deemed delivered on the date of deposit in the U.S. Mail; or (3) transmitted via telecopier using a telecopier number provided above, if any (or such other number as receiving party may have designated in writing), in which case the delivery shall be deemed to have occurred on the day of the transmission, provided that the day of transmission is a business day in the City of Orlando, Florida, and the time of transmission is prior to 5:00 p.m. EST, or, if not, the first City business day after the transmission.

VIII. MISCELLANEOUS PROVISIONS

A. The Artist shall not employ subcontractors without the advance written permission of the City's Chief Procurement Officer.

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- B. Assignment of this Contract shall not be made without the advance written consent of the City's Chief Procurement Officer.
- C. No waiver, alterations, consent or modification of any of the provisions of this Contract shall be binding unless in writing and signed by the City's Chief Procurement Officer or designee.
- D. The Artist is to procure all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by federal, state and local laws, ordinances, rules, and regulations, for the proper execution and completion of the Work under this Contract.
- E. All disputes between the parties shall be resolved in accordance with the City's Procurement Code, (Chapter 7 of the City Code).
- F. This Contract is a non-exclusive Contract between the parties.
- G. This Contract is deemed to be under and shall be governed by, and construed according to, the laws of the State of Florida.
- H. Any litigation arising out of this Contract shall be had in the Courts of Orange County, Florida.
- I. Artist shall comply with all applicable federal, state, and local laws in the performance of work under the contract. To the extent applicable, Artist shall comply with Florida public records laws, including Sections 119.0701(2) (b) 1 through 4 of the Florida Statutes. **IF THE ARTIST HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARTIST'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT C/O DEPUTY CITY CLERK, RECORDS@CITYOFORLANDO.NET, PHONE NUMBER (407) 246-3538, 400 s. ORANGE AVE., ORLANDO, FL 32801.**
- J. The undersigned hereby certifies that this Contract is made without prior understanding, agreement or connection with any corporation, firm or person who submitted proposals for the Work covered by this Contract and is in all respects fair and without collusion or fraud. As to Artist, the undersigned hereby warrants

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and certifies that they are authorized to enter into this Contract and to execute same on behalf of the Artist as the act of the said Artist.

- K. This Contract, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No other agreements, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind either party hereto. In the event of any dispute or conflict between the provisions of this Contract and any exhibit or attachment hereto, the terms of this Contract shall control.
- L. The City's Chief Procurement Officer or written designee shall have authority to act on behalf of the City in matters related to this Contract, including but not limited to the sending and receiving of any notices required hereunder.
- M. If any section, sentence, clause, phrase, provision, or other portion of this Contract is, for any reason, held invalid or unconstitutional by a court or other body of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the Contract.
- N. This Contract is solely for the benefit of the parties to the Contract and no causes of action shall accrue upon or by reason hereof to or for the benefit of any third parties.
- O. Artist hereby represents, warrants, and certifies that Artist does not use coercion for labor or services as defined in Section 787.06, Florida Statutes and that Artist has provided the Human Trafficking Affidavit attached hereto as Exhibit "B."

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

CITY OF ORLANDO, FLORIDA

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the City of Orlando, only.

By: _____
Chief Procurement Officer, City of Orlando

Date: _____, 20__

DAVID BILLINGSLEY, CPSM, C.P.M.
Name, Typed or Printed

Date: _____, 20__

ASSISTANT CITY ATTORNEY
ORLANDO, FLORIDA

ARTIST

By: _____
Signature

Name & Title, Typed or Printed

Name of Company, Corp., etc.

STATE OF FLORIDA COUNTY OF
ORANGE

PERSONALLY APPEARED before me, by means of physical presence or online notarization, the undersigned authority, _____, well known to me or who has produced his/her _____ as identification, and known to me to be the _____ of above-mentioned company, and acknowledged before me that he/she executed the foregoing Contract on behalf of said company, as its true act and deed, and that he/she was duly authorized to do so.

WITNESS my hand and official seal this _____ day of _____, 2025.

NOTARY PUBLIC
Print Name: _____ My
Commission Expires:

EXHIBIT “A”

SCOPE OF SERVICES

Artist shall design, fabricate, and install:

Structure:

A vertical spiral of interlocked tennis rackets, cast in aluminum or bronze and painted with UV-resistant yellow and dark patina accents.

Design:

No symmetry—rackets are tilted, bent, or fused together in controlled chaos, giving the impression of motion or levitation.

Dimensions (approx.):

Height: 3.5 m (11.5 ft)

Width: 1.8 m (6 ft)

Depth: 1.2 m (4 ft)

Weight: ~500–600 kg



EXHIBIT “B”

Human Trafficking Affidavit

Instruction: “Agency”, defined as any person or nongovernmental entity seeking to engage in business with the City of Orlando (“City”), must complete the following form.

The undersigned, on behalf of Agency, hereby attests as follows:

A. Agency understands and affirms that Section 787.06(13), Florida Statutes, prohibits the City from executing, renewing, or extending a contract to entities that use coercion for labor or services, with such terms defined as follows:

- **“Coercion”** means: **(1)** using or threatening to use physical force against any person; **(2)** restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; **(3)** using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; **(4)** destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; **(5)** causing or threatening to cause financial harm to any person; **(6)** enticing or luring any person by fraud or deceit; or **(7)** providing a controlled substance as outlined in Schedule I or Schedule II of Section [893.03](#), Florida Statutes, to any person for the purpose of exploitation of that person.
- **“Labor”** means work of economic or financial value.
- **“Services”** means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

B. Agency hereby attests, under penalty of perjury, that Agency does not use coercion for labor or services as defined in Section 787.06(2), Florida Statutes.

I, the undersigned, am an officer or representative of the nongovernmental entity named below, and hereby represent that I: make the above attestation based upon personal knowledge; am over the age of 18 years and otherwise competent to make the above attestation; and am authorized to legally bind and make the above attestation on behalf of the Agency. **Under penalties of perjury, I declare that I have read the forgoing document and that the facts stated in it are true.** Further Affiant sayeth naught.

Agency: _____

Authorized Signature: _____ Date: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20____, by _____, as

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_____ on behalf of the company/corporation. They are personally known to me or
have produced _____ as identification.

Signature of Notary Public

Name of Notary Typed, Printed or Stamped

My Commission Expires: _____