

Prepared by:
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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (hereinafter the “Agreement”) is made and executed as of the ____ day of _____, 2020, by and between the City of Margate, a Florida municipal corporation, (hereinafter the “Grantor”), whose mailing address is: 5790 Margate Boulevard, Margate, Florida 33063, and the Margate Community Redevelopment Agency, a Florida public agency (hereinafter the “Grantee”), its agents, servants, employees, or contractors whose mailing address is 5790 Margate Boulevard, Margate, FL 33063.

(Wherever used herein, the terms “Grantor” and “Grantee” include all the parties to this instrument and their heirs, legal representatives, assigns and successors in title)

WHEREAS, Grantee is currently undertaking construction of the sports complex (the “Project”) at the Grantee’s property located on Banks Road, Margate Florida, which is adjacent to Grantor’s property located at 1695 Banks Road, Margate, Florida 33063, and more fully described in **Exhibit “A,”** which is attached hereto and incorporated herein by reference; and

WHEREAS, as part of the Grantee’s Project, the Grantee will undertake construction on a portion of Grantor’s property, and require access to Grantor’s property in order to perform the construction of the Grantee’s Project; and

WHEREAS, Grantor desires to grant to Grantee a temporary easement for the purposes of performing the construction on a portion of Grantor’s property, as more fully described in **Exhibit “B,”** and to provide access to the construction site on Grantee’s property, during the period of Grantee’s construction of the Grantor’s construction project, including the storage of construction materials thereon; and

WHEREAS, following the completion of this project the Grantee will restore any portion of the Grantor’s property to its original condition, taking into consideration the nature of the work being performed; and

WHEREAS, Grantor and Grantee desire to set forth the terms and conditions of said easement.

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Grant of Temporary Construction Easement. Grantor hereby grants and conveys to Grantee, its contractors, subcontractors, agents and employees, a temporary easement on Grantor's property as more fully described in **Exhibit "B,"** which is attached hereto and incorporated herein by reference (hereinafter the "Easement"). The Easement shall be granted for construction purposes for no less than 365 days from the date of execution of this Easement by the Grantor on, over, across and upon the Grantor's property, together with ingress and egress for pedestrian access, from and between Grantee's Property, which is more fully described in **Exhibit "A,"** which is attached hereto for purposes of construction of the Grantee's Project and the Grantor's Property and over/under the Grantor's property as needed, during the period of Grantee's construction of the Project, including the storage of construction materials thereon.

2. Termination of Easement. This Agreement, and Grantee's use of the Easement granted on the Property, may be unilaterally terminated by Grantor at any time only after the passage of 365 calendar days subsequent to the date this Agreement is executed by the Grantor. Grantor shall provide a sixty (60) calendar day written notice of its decision to unilaterally terminate the Easement no earlier than 365 calendar days subsequent to the date this Agreement is executed by the Grantor. The termination shall be evidenced by a written Termination of Easement to be provided to Grantee. Grantee may unilaterally terminate this Agreement prior to the expiration of the 365 calendar days by providing a written Termination of Easement to the Grantor, and providing Grantor with a sixty (60) calendar day written notice of its decision to terminate this Agreement.

3. Hazardous Waste Contamination. Grantee shall not permit the Grantor's property to be a site for the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or presence of any oil, flammable, explosives, lead paint, PCBs, medical waste, petroleum or petroleum products or constituents, methane, asbestos, urea formaldehyde insulation, mold, toxic mold, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "wastes," "regulated substances," "industrial solid wastes," or "pollutants or contaminants" under the Hazardous Materials Laws, as described below, and/or other applicable environmental laws, ordinances and regulations, in such quantities that violate Hazardous Materials Laws (collectively, the "Hazardous Materials"), other than materials used and stored in compliance with applicable laws.

4. Indemnity and Cooperation. To the extent permitted by law, and subject to the limitations contained in Section 768.28, Fla.Stat., as may be amended from time to time, Grantee shall indemnify, defend and forever hold Grantor harmless from and against any and all claims,

liabilities, claims of liens, demands, damages, losses, costs and expenses (including, without limitation, all claims of damage or injury to person (including loss of life and property), including specifically any loss arising due to Project work. The indemnification provided herein shall survive the termination of this Agreement for a period of one (1) year thereafter.

5. Use of Grantor Property. Grantor shall allow Grantee, its contractors, subcontractors, agents and employees, onto the Property for construction purposes on the Project Area.

6. Cooperation. Grantor shall cooperate with Grantee and agrees to sign all permit applications necessary to complete the work on the Project.

7. No Dedication. Nothing contained in this Agreement shall in any way be construed as a dedication of any easement rights to the public for public use, and all of the agreements herein created are private and do not constitute grants for public use.

8. Severability. If any provision of this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof and any other application thereof shall not in any way be affected or impaired, and such remaining provisions shall continue in full force and effect.

9. Governing Law. This Agreement shall be construed, interpreted and enforced in accordance with the internal laws of the State of Florida, without regard to the conflict of laws principles thereof. Jurisdiction and venue for any legal proceedings hereunder shall be in the federal and state courts situated in Broward County, Florida.

10. Exhibits. All Exhibits referenced herein as attached hereto shall be deemed incorporated herein by reference.

11. Liens. Grantee will not suffer or permit any mechanics' lien, equitable lien or any other lien or encumbrance of any kind to be filed or otherwise asserted against the Property, and will cause any such lien to be released or bonded within thirty (30) days of the receipt of notice of filing, time being of the essence.

12. Enforcement. Each party hereto shall have the right to specifically enforce the obligations of the other party to this Agreement. In the event of any action at law or in equity to enforce this Agreement, the prevailing party shall be entitled to recover all costs of suit and reasonable attorney's fees through trial and all appellate levels.

13. Miscellaneous; Recitals. As used in this Agreement, the singular shall include the plural, the plural shall include the singular, and words of any gender shall include the other genders as the context may require. The headings are for convenience only and shall not be interpreted to impart any meaning to the text. The recitals set forth above are true and correct and incorporated herein by reference.

14. Counterparts. This document may be executed in multiple counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

15. Term of Easement and Termination. The Easement, and the other terms of this Agreement, shall commence on the date hereof and shall be for a temporary term.

16. Entire Agreement. This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

17. Covenants Running with the Land. All provisions of this Agreement, including the benefits and burdens of the same, are covenants which shall run with the land and which shall inure to, and bind, the heirs, legal representatives, assigns and successors of Grantee and Grantor.

IN WITNESS WHEREOF, Grantor and Grantee have signed and sealed this instrument as of the date set forth above.

(SIGNATURE PAGE TO FOLLOW)

CITY OF MARGATE

Tommy Ruzzano, Mayor

____ day of _____, 2020

Cale Curtis, City Manager

____ day of _____, 2020

ATTEST:

APPROVED AS TO FORM:

Joseph J. Kavanagh, City Clerk

____ day of _____, 2020

Janette M. Smith, City Attorney

____ day of _____, 2020

MARGATE COMMUNITY REDEVELOPMENT AGENCY

Tommy Ruzzano, Chair

____ day of _____, 2020

Cale Curtis, Interim Executive Director

____ day of _____, 2020

ATTEST:

APPROVED AS TO FORM:

Rita Rodi, CRA Coordinator

____ day of _____, 2020

David N. Tolces, CRA General Counsel

____ day of _____, 2020

EXHIBIT “A”

LEGAL DESCRIPTION OF GRANTEE’S PROPERTY

Property ID # 484230340010

PARCEL “A,” HAIG AND DUKE PLAT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 175, PAGES 131 AND 132 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA

EXHIBIT "B"

LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

Property ID # 484230010018

Portions of Tract 29, Block 93, The Palm Beach Farms Co., Plat No. 3, recorded in Plat Book 2, pages 45 - 54, Public Records, Palm Beach County, Florida and portion of Parcel E, Central Park of Commerce, recorded in Plat Book 119, page 27, Public Records, Broward County, Florida, and a portion of the vacated roadway per Official Record Book 1406, page 556 and Official Record Book 1273, page 78, Public Records, Broward County, Florida, being more particularly described as follows:

Begin at the Northernmost corner of said parcel E and point on a curve said point bears South 89°58'42" West from the radius point; thence Southeasterly along a circular curve to the left and along the Westerly right-of-way of Banks Road, having a radius of 1353.00 feet a central angle of 1°55'09" for an arc distance of 45.32 feet; thence South 89°57'09" West for 255.02 feet; thence South 00°01'18" East for 259.09 feet; thence South 89°57'09" West along the South boundary of said Tract 29 for 720.73 feet; thence North 00°00'51" West along the West boundary of said Tract 29 for 688.17 feet thence North 89°57'09" East for 720.65 feet; thence South 00°01'18" East for 326.31 feet; thence North 89°55'42" East for 219.30 feet; thence North 44°57'12" East for 49.48 feet; thence South 00°01'18" East along the Westerly right-of-way line of Banks Road for 92.53 feet to the Point of Beginning.