

MARGATE COMMUNITY REDEVELOPMENT AGENCY

RESOLUTION NO. 613

A RESOLUTION OF THE MARGATE COMMUNITY REDEVELOPMENT AGENCY ("MCRA") APPROVING THE NEW BUSINESS INCENTIVE GRANT PROGRAM GRANT AGREEMENT WITH CULVER'S OF MARGATE, LLC IN AN AMOUNT NOT TO EXCEED \$147,900; AUTHORIZING THE PROPER MCRA OFFICIALS TO EXECUTE THE NEW BUSINESS INCENTIVE GRANT PROGRAM GRANT AGREEMENT WITH CULVER'S OF MARGATE, LLC; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MARGATE COMMUNITY REDEVELOPMENT AGENCY:

SECTION 1: That the Board of the Margate Community Redevelopment Agency ("MCRA") hereby approves the New Business Incentive Grant Program Grant Agreement with Culver's of Margate, LLC in an amount not to exceed \$147,900, a copy of which is attached hereto as Exhibit "A".

Section 2: That the MCRA Board finds that the New Business Incentive Grant Program Grant Agreement with Culver's of Margate, LLC, is consistent with the MCRA's Redevelopment Plan, the provisions of Chapter 163, Florida Statutes, and serves both a municipal and public purpose.

Section 3: That the proper MCRA officials are hereby authorized to execute all necessary documents to effectuate the intent of this Resolution, including, but not limited to the New Business Incentive Grant Program Grant Agreement with Culver's of Margate, LLC.

That this Resolution shall become effective immediately upon its passage.

PASSED, ADOPTED, AND APPROVED THIS 13th day of November, 2019.


Chair Tommy Ruzzano

RECORD OF VOTE

Simone	No.
Arserio	YES
Schwartz	YES
Caggiano	YES
Ruzzano	YES



**Margate Community Redevelopment Agency
New Business Incentive Grant Program**

Grant Agreement

THIS AGREEMENT, made and entered into the 13 day of November, 2019, by and between:

CULVER'S OF MARGATE, LLC
(hereinafter referred to as "OWNER"; and

THE COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF MARGATE, FLORIDA
(hereinafter referred to as "MCRA")

relates to the real property lying in the City of Margate, in Broward County, Florida, Property ID # 4842 30 05 0020, legally described as follows (the "Property"):

TRACT A, MARGATE DISTRICT HEADQUARTERS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 88, PAGE 14, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID TRACT A; THENCE SOUTH 01°10'00" EAST ALONG THE EAST LINE OF SAID TRACT A AND THE WEST RIGHT OF WAY LINE OF N.W. 55TH AVENUE, FOR A DISTANCE OF 250.00 FEET TO THE SOUTH LINE OF SAID TRACT A;

THENCE SOUTH 89°32'02" WEST. ALONG SAID SOUTH LINE, FOR A DISTANCE OF 293.69 FEET TO A POINT;

THENCE NORTH 00°25'58" WEST, FOR A DISTANCE OF 250.07 FEET TO THE NORTH LINE OF SAID TRACT A AND THE SOUTH RIGHT OF WAY LINE OF COPANS ROAD;

THENCE NORTH 89°33'02" EAST, ALONG SAID NORTH LINE OF TRACT A AND SOUTH RIGHT OF WAY LINE OF COPANS ROAD, FOR A DISTANCE OF 293.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.68 ACRES MORE OR LESS

Complete Property Address: 5510 West Copans Road, Margate, Florida 33063

WHEREAS, the City of Margate has created a Community Redevelopment Agency; and

WHEREAS, the MCRA is charged with enhancing the appearance of the City of Margate within the Community Redevelopment Area; and

WHEREAS, the MCRA has received tax increment funds to improve the Community Redevelopment Area; and

WHEREAS, the MCRA wishes to utilize funds from its Redevelopment Trust Fund in accordance with its Redevelopment Plan; and

WHEREAS, the MCRA has created a grant program to attract new business, new jobs, and new commercial construction to areas within the Community Redevelopment Area within the City of Margate; and

WHEREAS, the MCRA has determined that the proposed business, commercial construction and site improvements that OWNER has submitted for the Property meets the intent of the New Business Incentive Grant program; and

WHEREAS, the MCRA Board of Commissioners finds that the Property is located within the MCRA's Community Redevelopment Area, and that this Grant Agreement is consistent with Chapter 163, Part III, Florida Statutes, the goals and objectives of the MCRA's redevelopment plan, and serves both a municipal and public purpose; and

WHEREAS, OWNER wishes to abide by all the guidelines approved by the MCRA for the New Business Incentive Grant program.

NOW, THEREFORE, in consideration for the mutual promises, covenants, and conditions contained herein, the parties agree as follows:

SECTION 1: That the above recitals are true and correct and are incorporated herein.

SECTION 2: The MCRA agrees to provide the OWNER with funds in an amount not to exceed \$147,900.00, or 5% of the total reasonable costs, (the "Grant Funds"), as determined by the MCRA at its sole discretion, associated with the construction of the development of the Property, whichever is less. The reasonable costs associated with the construction shall include

costs incurred by the OWNER in association with the construction of the building, site improvements, furniture, fixtures, equipment, appropriate impact fees, and City-mandated fund contributions, (the "Project") as approved by the MCRA (with actual reimbursement to be based on final approved cost, at the MRCA's sole discretion and in an amount not to exceed OWNER requested amount of \$147,900.

SECTION 3: OWNER agrees to accept the Grant Funds solely as reimbursement for the actual costs expended by OWNER for the construction of the Project in accordance with the OWNER's application for New Business Incentive Grant, which is attached hereto as Exhibit "A," and incorporated herein by reference. The MCRA Board of Commissioners hereby approves the New Business Incentive Grant application submitted by OWNER for the Project.

SECTION 4: As a further condition of this grant, the OWNER, at the time the MCRA issues any reimbursement payment under this grant agreement, agrees to execute a security agreement in favor of the MCRA, as well as a promissory note equal to the amount of the final amount of the Grant Funds provided by the MCRA. Such security agreement shall be junior only to those permitted senior encumbrances listed in Exhibit "B". The terms of the note shall provide that the Grant Funds shall only be due and payable back to the MCRA in the event of a default of the OWNER's obligation under the security agreement, and in the event no default shall have occurred, the OWNER shall have fully performed under the grant conditions, the security agreement and the promissory note shall be extinguished and satisfied.

SECTION 5: As a condition to retaining the Grant Funds, OWNER shall provide that the new business shall create and maintain at least fifteen (15) full-time equivalent jobs, (1 FTE = 2,080 hours per year) in Margate, Florida no later than one year after the execution of the security agreement and promissory note, and for the next four years thereafter. If OWNER fails to maintain the fifteen (15) full-time equivalent jobs, OWNER shall pay the MCRA the amount of Grant funds provided to OWNER. OWNER agrees this provision shall also be contained within the security agreement and promissory note.

As a further condition to retaining all grant amounts received from the MCRA, OWNER shall cause to be paid an average salary equal to or greater than the minimum wage as established by the Department of Labor.

In accordance with the provisions of this Agreement, the number, dates, and salaries of all hires in Margate, Florida must be substantiated by OWNER to the MCRA's satisfaction, within fourteen (14) months of issuance of a certificate of occupancy for the Project as set forth in Exhibit "A" and then annually by the anniversary date of the signing of this agreement. For the purposes of this Agreement, the term salaries means wages, gratuities, salaries, commissions, bonuses, drawing accounts (against future earnings), prizes and awards (if given by an employer for the status of employment), vacation pay, sick pay, and other payments consistent with the Florida Department of Labor and Employment Security definitions, paid to employees.

OWNER shall provide to the MCRA this verification in writing as provided herein; provided, however, that OWNER shall provide this verification on or before the expiration of fourteen (14) months following the issuance of the certificate of occupancy for the Project as set forth in

Exhibit "A" and then annually thereafter. Within ninety (90) days from the date this annual verification is submitted to the MCRA, OWNER agrees to refund to the MCRA Ten Thousand Dollars (\$10,000.00) for each position not created. In no instance shall the amount refunded to the MCRA over the five year life of this grant exceed the amount actually reimbursed to OWNER.

In the event the OWNER ceases to exist, or ceases or suspends its operation for any reason, any remaining unpaid portion of this Agreement shall be retained by the MCRA and the MCRA shall have no further funding obligation to OWNER with regard to those unpaid funds. The determination that the OWNER has ceased or suspended its operation shall be made solely by the MCRA. OWNER, its successors or assigns in interest, agrees to be bound by the MCRA's determination.

SECTION 6: The security agreement and promissory note shall provide that should OWNER sell, or otherwise convey the property where the improvements are constructed, during the first five (5) years after receipt of the Grant funds, OWNER shall reimburse the MCRA for the total amount of Grant funds provided to Applicant. OWNER agrees this provision shall also be contained within the security agreement and promissory note.

SECTION 7: Award of the grant shall be forfeited if construction of a building or site improvements does not commence within one hundred eighty (180) days of the date of the Agreement is executed by MCRA, or if the issuance of the certificate of occupancy does not occur within one hundred eighty (180) days of the first building permit. After the expiration of either 180 day period, the Grant will be closed out, the funds will be recaptured, and the MCRA shall not be obligated to make any reimbursement unless an extension has been granted by the MCRA Board of Commissioners.

SECTION 8: The final appearance of the completed construction shall be exactly as submitted by OWNER to MCRA, and adopted by MCRA as provided in Exhibit "A" to this Agreement. If any alterations to the design must be made, OWNER shall immediately make the MCRA aware of such necessary alterations and such alteration must be approved by the MCRA prior to their construction. The MCRA reserves the right to add additional criteria or reject designs or alterations to design for any reason. If alterations are made by OWNER without approval of or after being rejected by MCRA, the award of grant shall be forfeited and no reimbursement of any portion, neither fixtures nor construction nor other, shall be made by MCRA.

SECTION 9: Grant Funds shall be dispersed only on a reimbursement basis and only upon completion of the construction to all the specifications approved by the MCRA including preparation of plans by a State Licensed Architect and construction of improvements by a State of Florida Licensed Contractor. Project must comply with all applicable laws, ordinances and regulations including all permitting and zoning laws and meet approval by the MCRA. Funds will be dispersed after the inspection of the project by the MCRA and when all permits are closed, a Certificate of Occupancy is issued, and all release of liens by any contractors and/or subcontractors have been submitted to the MCRA.

SECTION 10: In addition to executing the security agreement and promissory note required in SECTION 4, OWNER must provide the following to MCRA to receive reimbursement:

- a. Detailed invoices from the contractor or vendor corresponding to the completed approved improvements and a summary sheet of all invoices showing invoice number, contractor, amount paid, and total amounts.
- b. Proof of payment in the form of cancelled checks (front and back), or credit card statements clearly indicating that payment for the specific item has been made. Payment amounts must correspond with invoice amounts. Cash payments to contractors or vendors will not be considered for reimbursement.
- c. Paid in full receipt for each invoice.
- d. Proof of closed Building permits and Certificate of Occupancy.
- e. Title opinion showing ownership of the Property in Applicant's name, and no liens or encumbrances on the Property other than duly recorded easements, dedications, and construction loan (if applicable).

SECTION 11: OWNER agrees that OWNER shall not change the appearance of the Project within five (5) years of the date of the payment of the Grant Funds, without the permission of the MCRA. If any provision of this agreement is violated, OWNER or successor OWNER shall repay all funds granted, plus interest at the prevailing interest rate, not to exceed 8% from the time that Grant Funds were disbursed.

SECTION 12: OWNER agrees to maintain the property, and to insure any businesses upon the property remain, free of any violations of applicable federal, state, county, and municipal laws, regulations, and ordinances for the five (5) year term of this Agreement. The Promissory Note and the Security Agreement shall provide that the OWNER shall be in default in the event there are any violations of this provision, at the MCRA's sole discretion.

SECTION 13: OWNER agrees to maintain the property, and to insure any businesses upon the property remain, free of all municipal and county liens, judgments, and encumbrances of any kind during the term of the Security Agreement and Promissory Note.

SECTION 14: OWNER agrees that the MCRA shall have a right to place a sign on OWNER's property during the construction period and up to 60 days after the issuance of a Certificate of Occupancy, announcing the project, the MCRA as a source of funding, and/or any other such information that the MCRA deems appropriate.

SECTION 15: For the five-year term of the mortgage and note, OWNER agrees that OWNER shall not sell or lease any portion of the property to any entity that is exempt from the

payment of ad valorem taxes. The Promissory Note and Security Agreement shall provide that if this provision is violated, the OWNER shall repay all funds granted, plus interest at the prevailing rate, but not to exceed 8% from the time that Grant Funds were disbursed.

SECTION 16: This agreement shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.

SECTION 17: The parties to this agreement hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action, proceeding, lawsuit or counterclaim based upon the contract, arising out of, under, or in connection with the matters to be accomplished in this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or the actions or inactions of any party.

SECTION 18: OWNER agrees that this Agreement shall run with the land, and shall bind the OWNER, its heirs, assigns, and successors. OWNER agrees that this Agreement shall be recorded in the Public Records of Broward County, Florida, upon disbursement of the Grant Funds.

SECTION 19: The MCRA's obligation to pay under this Agreement is contingent upon having received tax increment funds pursuant to Chapter 163, Part III, Florida Statutes, and that the funds for the Grant Program have been budgeted and appropriated by the MCRA's Board of Commissioners.

SECTION 20: PUBLIC RECORDS. OWNER shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, OWNER shall:

- (a) Keep and maintain public records required by the MCRA to perform the service.
- (b) Upon request from the MCRA's custodian of public records, provide the MCRA with a copy of the 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 this chapter or as otherwise provided by law.
- (c) 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 the OWNER does not transfer the records to the MCRA.
- (d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the OWNER or keep and maintain public records required by the public agency to perform the service. If the

contractor transfers all public records to the MCRA upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the OWNER keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the MCRA's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

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

**JOSEPH J. KAVANAGH, CITY CLERK
5790 MARGATE BLVD.
MARGATE FL 33063
(954) 935-5327
JJKAVANAGH@MARGATEFL.COM**

SECTION 21: NOTICES. All notices, demands, requests for approvals or other communications given by either party to another shall be in writing, and shall be sent by registered or certified mail, postage prepaid, return receipt requested or by overnight courier service, or by hand delivery to the office for each party indicated below and addressed as follows:

For MCRA: Jeffrey Oris, Executive Director
Margate Community Redevelopment Agency
5790 Margate Blvd.
Margate, FL 33063
Telephone No. (954) 935-5307

Copy to: David N. Tolces, Esq.
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Blvd., Suite 200
Fort Lauderdale, FL 33308
Telephone No. (954) 771-4500

For OWNER: Mr. Eric Pierce
2625 NE 14th Avenue, Suite #118
Oakland Park, FL 33334
Telephone No. 954-325-4643

(b) Notices given by courier service or by hand delivery shall be effective upon delivery and notices given by mail shall be effective on the third (3rd) business day after mailing. Refusal by any person to accept delivery of any notice delivered to the office at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Section. The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other parties and such notices shall be effective upon receipt. Until notice of change of address is received as to any particular party hereto, all other parties may rely upon the last address given.

SECTION 22: The article and section headings and captions of this Agreement are for convenience and reference only and in no way define, limit, describe the scope or intent of this Agreement or any part thereof, or in any way affect this Agreement or construe any article, section, subsection, paragraph or provision hereof.

SECTION 23: Entire Agreement. The MCRA and the Grantee agree that this Agreement sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

Witness

Owner (or authorized officer if not individuals)

Print Name

Print Name and Title

Witness

Print Name

STATE OF FLORIDA
COUNTY OF BROWARD

Before me, the undersigned authority, this 28th day of October, 2019, personally appeared Eric Pierce, Manager of Owner, who acknowledges that before me he/she freely and voluntarily executed this Agreement for the purpose therein expressed.

Personally Known X

Produced Identification _____

Type of I.D. _____

[Signature]
Notary Public, State of Florida

(seal)



STEVEN SNYDER WHERRY
Commission # GG 113711
Expires June 11, 2021
Bonded Vice Budget History Services

Steven Wherry
Print Name

MARGATE COMMUNITY REDEVELOPMENT AGENCY USE ONLY BELOW LINE

By: [Signature]

Tommy Ruzzano, Chair

By: [Signature]

Jeffrey L. Oris, Executive Director

Agreement Prepared by:
Margate Community Redevelopment Agency
5790 Margate Boulevard, Margate, FL 33063