

MARGATE COMMUNITY REDEVELOPMENT AGENCY

RESOLUTION NO. 676

A RESOLUTION OF THE MARGATE COMMUNITY REDEVELOPMENT AGENCY APPROVING THE LICENSE AGREEMENT BETWEEN THE CITY OF MARGATE AND THE MARGATE COMMUNITY REDEVELOPMENT AGENCY FOR THE OPERATION, MAINTENANCE, AND MANAGEMENT OF THE COVERED ATHLETIC FIELD PROPERTY; AUTHORIZING THE CHAIR AND EXECUTIVE DIRECTOR TO EXECUTE THE LICENSE AGREEMENT; PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: That the Board of the Margate Community Redevelopment Agency hereby approves the License Agreement between the Margate Community Redevelopment Agency and the City of Margate, (the "License Agreement") for the Operation, Maintenance, and Management of the Covered Athletic Field Property, a copy of which is attached hereto as Exhibit "A", as more particularly described in the License Agreement.

SECTION 2: That the MCRA Chair and Executive Director are hereby authorized and directed to execute the License Agreement, a copy of which is attached hereto and specifically made a part of this Resolution as Exhibit "A".

SECTION 3: That this Resolution shall become effective immediately upon its passage.

PASSED, ADOPTED, AND APPROVED THIS 13TH DAY OF OCTOBER, 2021.



Chair Tommy Ruzzano

RECORD OF VOTE

Simone	<u>YES</u>
Arserio	<u>YES</u>
Schwartz	<u>YES</u>
Caggiano	<u>YES</u>
Ruzzano	<u>YES</u>

**LICENSE AGREEMENT BETWEEN THE CITY OF MARGATE
AND
THE MARGATE COMMUNITY REDEVELOPMENT AGENCY
FOR THE
OPERATION, MAINTENANCE, AND MANAGEMENT OF THE COVERED
ATHLETIC FIELD PROPERTY**

This License Agreement (hereinafter "Agreement") is made the ____ day of _____, 2021 ("Effective Date"), between the CITY OF MARGATE, a Florida municipal corporation (hereinafter "CITY") and the MARGATE COMMUNITY REDEVELOPMENT AGENCY, a public agency created pursuant to Charter 163, Part III, of the Florida Statutes (hereafter "MCRA").

W I T N E S S E T H:

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that would harmonize geographic, economic, population and other factors influencing the needs and developments of local communities; and

WHEREAS, the MCRA owns and controls real property known as the Covered Athletic Field Property, (the "Licensed Property"), which is located on Banks Road, Margate, Florida, adjacent to the CITY's Sports Complex; and

WHEREAS, the CITY desires to utilize the Licensed Property for special events, sporting events, community gatherings, and other public events; and

WHEREAS, the MCRA desires to permit the CITY to manage the Licensed Property in order to permit third parties to utilize the Licensed Property for special events open to the public; and

WHEREAS, the MCRA desires to authorize the CITY to operate and manage the Licensed Property for special events, sporting events, community gatherings, and other public events; and

WHEREAS, this Agreement serves both a municipal and public purpose, is consistent with and furthers the MCRA's Redevelopment Plan, and is consistent with the requirements of Part III, Chapter 163, Florida Statutes.

NOW, THEREFORE, FOR AND IN CONSIDERATION, of the mutual covenants, promises, agreements herein contained, and other valuable consideration the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are true and correct at the time of the execution of this Agreement and are incorporated herein.

2. Pursuant to the terms and conditions of this Agreement, the MCRA grants the CITY a license to use the Licensed Property for the purposes of special events, sporting events, community gatherings, and any other municipal or public purpose. In those instances where the CITY sponsors an event at the Licensed Property, the City's Parks and Recreation Department Director or his/her designee shall provide written notification to the Executive Director of the MCRA seven (7) days prior to the event. For events that are sponsored by the CITY, the CITY shall be responsible for all costs and expenses associated with the event, and following the event, the CITY shall ensure that all equipment, trash, and debris associated with the CITY Sponsored Event is removed from the Licensed Property, and that the Licensed Property is returned to its pre-event condition at no cost to the MCRA.

3. Requests for third-party events held pursuant to this Agreement shall be initiated through the submittal of the CITY's Facility Rental Request Form to the City's Parks and Recreation Department, and approved by the Parks and Recreation Director, or his/her designee. The Facility Rental Request Form shall include the fee to be paid to the CITY by the third party for the event, event guidelines, as well as notification of required insurance coverages. The Parks and Recreation Department will provide written notification to the MCRA of all issued permits by the Parks and Recreation Department for third party events seven (7) days prior to the event. For third party events, the CITY shall ensure that the third party is responsible for all costs and expenses associated with the event. Following the event, the CITY shall ensure that all equipment, trash, and debris associated with the Third Party Sponsored Event is removed from the Licensed Property, and that the Licensed Property is returned to its pre-event condition at no cost to the MCRA.

4. Temporary Use Permit Requirement and Payment of Rental/Use Fees.

4.1 All Third Party Sponsored Events held at the Licensed Property shall comply with all Temporary Use Permit requirements as provided in the City's Code of Ordinances, as may be amended from time to time.

4.2 The use of the Licensed Property by either the CITY or a Third Party shall be conditioned on the payment of the City's required fee as provided in the City's Parks and Recreation Department Fee Schedule, as may be amended from time to time, as well as the receipt of the certificate of insurance required by this Agreement. All fees and certificates of insurance shall be paid and delivered to the CITY prior to the commencement of the event.

4.3 Any rental/use fees collected by the CITY on behalf of the MCRA for the use of the Licensed Property shall be provided to the MCRA pursuant to a formula to be adopted by the City's Parks and Recreation Department, and approved by the City Manager and MCRA Executive Director.

5. The use of any portion of the Licensed Property shall be subject to the following:

5.1 CITY accepts the Licensed Property “as is”, and “with all faults.” MCRA makes no warranty or representation that the Licensed Property is safe, or is suitable for the CITY’s intended use. It shall be the CITY’s responsibility and obligation to ensure that the Licensed Property is stabilized so as to be able to accept the expected weight and resulting stresses of the personal property, materials, debris, equipment, and machinery to be used by the CITY on the Licensed Property, so that such personal property, materials, debris, equipment, and machinery can be operated safely and as intended.

5.2 All personnel of CITY and any contractors which at any time use the Licensed Property shall be suitably trained in safety and precautionary techniques and procedures. All use of the Licensed Property shall be conducted in a safe manner. Appropriate supervisory personnel of the CITY and any contractor shall be on the Licensed Property at any time that any debris, equipment, or machinery is moving thereon, and active supervision shall take place during such periods.

5.3 CITY agrees that all personal property and materials placed upon the Licensed Property shall remain the property of the CITY, and shall be placed upon the Licensed Property at the risk of CITY. MCRA shall have no responsibility or liability for damage or theft of such personal property and materials.

5.4 CITY agrees, to the extent permitted by law, and subject to the limitations of Section 768.28, Fla.Stat., to defend, indemnify, and hold the MCRA harmless for any claims, damages, costs or liabilities, with respect to use of any MCRA owned land pursuant to this Agreement.

5.5. Any third party organization or contractor utilizing the Licensed Property shall indemnify, and hold the MCRA and any property management company utilized by the MCRA, harmless for any claims, damages, costs or liabilities, including court costs and reasonable attorney’s fees and paralegal expenses at both the trial and appellate levels resulting from utilization of the Licensed Property. Any contractor utilizing the Licensed Property shall provide appropriate insurance acceptable to the CITY and the MCRA naming the CITY and the MCRA as additional insureds.

5.6 The CITY and any contractor utilizing the MCRA property in conjunction with any CITY use of the MCRA property agrees not to cause or permit any Hazardous Materials to be disposed of, on, in, under or about the Licensed Property, and the CITY and any contractor agrees that no re-fueling of any gasoline or diesel products, as well as the storage or placement of any Hazardous Materials will take place on the Licensed Property. This provision does not prevent the CITY and any contractor from safely and securely utilizing propane tanks or generators on the Licensed Property in furtherance of a municipal or public event. The CITY or any contractor utilizing the MCRA property shall not discharge Hazardous Materials or wastes into or through any sanitary sewer or trash facilities serving the Licensed Property.

6. The CITY agrees to be responsible for the maintenance and repair of the Licensed Property including the general cleaning and the ongoing day-to-day maintenance of the Licensed

Property. The CITY agrees to be responsible for all costs associated with repairs to electrical, plumbing, structural, mechanical, landscaping, and site conditions on the Licensed Property, at no cost to the MCRA. Any request by the CITY to have the MCRA pay for any costs associated with the maintenance and repair of the Licensed Property shall be submitted to the MCRA in writing, and the MCRA shall only be responsible for costs or expenses, upon written approval by the MCRA Executive Director.

7. This Interlocal Agreement shall be filed with the Broward County Clerk of Court pursuant to the requirements of Section 163.01(11) of the Florida Statutes.

8. The license under the terms of this Agreement shall be indefinite, unless sooner terminated as provided herein. The CITY or the MCRA may terminate this Agreement or any specific license for convenience upon fourteen (14) days prior written notice to the other party. The specific license granted for any specific MCRA property shall state the term of the specific license. Upon the Expiration Date, CITY shall remove all personal property, debris, and materials from the Licensed Property, and return the Licensed Property to the MCRA in the original state of the Licensed Property at the Effective Date.

9. PUBLIC RECORDS. With respect to any public records created, received or maintained in connection with this Agreement, each party is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that the other party would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, 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; and (d) meet all requirements for retaining public records and transfer, at no cost to either party, all public records in that party's possession upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to the other party in a format that is compatible with the other party's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

10. Termination/Default. If the CITY, or any contractor fails to perform or observe any of the material terms and conditions of this Agreement for a period of seven (7) business days following receipt of written notice, the MCRA may terminate this Agreement and remove any stored property or remediate any property damage at the cost of the CITY. Failure of any party to exercise its right in the event of any breach by the other party shall not constitute a waiver of such rights. No party shall be deemed to have waived any failure to perform by the other party unless such waiver is in writing and signed by the other party. Such waiver shall be limited to the terms specifically contained therein. This section shall be without prejudice to the rights of any party to seek a legal remedy for any breach of the other party as may be available to it in law or equity.

11. Governing Law. Venue. This Agreement shall be governed by and in accordance with the Laws of Florida. The venue for any action arising from this Agreement shall be in Broward County, Florida. **BY ENTERING INTO THIS AGREEMENT, CITY AND MCRA HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

12. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations. Any contractor utilizing the Licensed Property shall indemnify, and hold the MCRA harmless for any claims, damages, costs or liabilities, including court costs and reasonable attorney's fees and paralegal expenses at both the trial and appellate levels resulting from utilization of the Licensed Property. Any contractor utilizing the Licensed Property shall provide appropriate insurance acceptable to the MCRA naming the MCRA as an additional insured.

13. Whenever either party desires to give notice to the other, such notice must be in writing and sent by United States mail, return receipt requested, courier, evidenced by a delivery receipt, or by overnight express delivery service, evidenced by a delivery receipt, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice.

CITY OF MARGATE: Cale Curtis, City Manager
City of Margate
5790 Margate Boulevard
Margate, Florida, 33063
Telephone No. (954) 935-5300

Copy to: David N. Tolces, Interim City Attorney
City of Margate
5790 Margate Boulevard
Margate, Florida, 33063
Telephone No. (954) 935-5319
Facsimile No. (954) 935-5304

MARGATE CRA: Cale Curtis, Executive Director
Margate CRA
5790 Margate Boulevard
Margate, Florida, 33063
Telephone No. (954) 935-5300

Copy to:

David N. Tolces, General Counsel
Weiss Serota Helfman Cole & Bierman, P.L.
1200 N. Federal Highway, Suite 312
Boca Raton, FL 33432
Telephone No. (561) 835-2111
Facsimile No. (954) 764-7770

14. Neither the CITY nor the MCRA shall assign or transfer any rights or interest in this Agreement.

15. This Agreement contains the entire understanding of the parties relating to the subject matter hereof superseding all prior communications between the parties whether oral or written, and this Agreement may not be altered, amended, modified or otherwise changed nor may any of the terms hereof be waived, except by a written instrument executed by both parties. The failure of a party to seek redress for violation of or to insist on strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

16. Should any part, term or provision of this Agreement be by the courts decided to be illegal or in conflict with any law of the State, the validity of the remaining portions or provisions shall not be affected thereby.

17. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

18. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the CITY OF MARGATE and the MARGATE COMMUNITY REDEVELOPMENT AGENCY have caused these presents to be executed in their respective names by the proper officials the day and year first above written.

(SIGNATURE PAGE TO FOLLOW)

CITY OF MARGATE

Arlene Schwartz, Mayor

____ day of _____, 2021

ATTEST:

Joseph J. Kavanagh, City Clerk

____ day of _____, 2021



Tommy Ruzzano, Chair

13 day of OCTOBER, 2021

ATTEST:



Rita Rodi, CRA Coordinator

13 day of OCTOBER, 2021

Cale Curtis, City Manager

____ day of _____, 2021

APPROVED AS TO FORM:

David N. Tolces, Interim City Attorney

____ day of _____, 2021



Cale Curtis, Executive Director

13 day of OCTOBER, 2021

APPROVED AS TO FORM:



David N. Tolces, CRA General Counsel

13 day of OCTOBER, 2021

MARGATE COMMUNITY REDEVELOPMENT AGENCY

EXHIBIT A
CITY EVENT REQUEST FORM
(TO BE PROVIDED AND ATTACHED)

EXHIBIT “B”

THIRD PARTY EVENT REQUEST FORM TO BE DRAFTED AND ATTACHED

LANGUAGE TO BE INCLUDED IN THIRD PARTY EVENT REQUEST FORM

1. THIRD PARTY accepts the Licensed Property “as is”, and “with all faults.” MCRA makes no warranty or representation that the Licensed Property is safe, or is suitable for the THIRD PARTY’s intended use.

2 All personnel of THIRD PARTY and any contractors which at any time use the Licensed Property shall be suitably trained in safety and precautionary techniques and procedures. All use of the Licensed Property shall be conducted in a safe manner. Appropriate supervisory personnel of the THIRD PARTY and any contractor shall be on the Licensed Property at any time that any debris, equipment, or machinery is moving thereon, and active supervision shall take place during such periods.

3 THIRD PARTY agrees that all personal property and materials placed upon the Licensed Property shall remain the property of the THIRD PARTY, and shall be placed upon the Licensed Property at the risk of THIRD PARTY. The CITY and the MCRA shall have no responsibility or liability for damage or theft of such personal property and materials.

4. THIRD PARTY shall indemnify and save harmless CITY and MCRA from and against all claims of whatever nature arising from any act, omission or negligence of THIRD PARTY, or THIRD PARTY's contractors, licensees, invitees, agents, servants, or employees, or arising from any accident, injury, or damage whatsoever caused to any person, or to the Licensed Property of any person, or from any violation of applicable law. This indemnity and hold harmless agreement shall include indemnity against attorney’s fees, paralegal expenses, costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof, at both the trial and appellate levels, and shall survive the expiration or earlier termination of the event.

5. The THIRD PARTY and any contractor utilizing the MCRA property in conjunction with any THIRD PARTY use of the MCRA property agrees not to cause or permit any Hazardous Materials to be disposed of, on, in, under or about the Licensed Property, and the THIRD PARTY and any contractor agrees that no re-fueling of any gasoline or diesel products, as well as the storage or placement of any Hazardous Materials will take place on the Licensed Property. This provision does not prevent the THIRD PARTY and any contractor from safely and securely utilizing propane tanks or generators on the Licensed Property in furtherance of a municipal or public event. The THIRD PARTY or any contractor utilizing the MCRA property shall not discharge

Hazardous Materials or wastes into or through any sanitary sewer or trash facilities serving the Licensed Property.