

REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT is made and entered into on this _____ day of _____, 20____, by and between CITY OF DELRAY BEACH, a political subdivision of the State of Florida ("CITY"), and MAE VOLEN SENIOR CENTER, INC, 1515 West Palmetto Park Road, Boca Raton, FL 33486 ("LICENSEE" or "CONTRACTOR").

WHEREAS, LICENSEE desires a revocable license for the exclusive use of auditorium and kitchen facilities of Pompey Park Recreation Center to provide congregate meals for senior citizens; and

WHEREAS, the CITY finds that providing this service promotes the health, safety and welfare of the citizens of Delray Beach; and

WHEREAS, CITY finds it to be in the public interest to grant LICENSEE a revocable license for the use stated herein under the terms and conditions set forth below; NOW, THEREFORE,

WITNESSETH:

IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter contained, it is hereby agreed by and between the parties hereto as follows:

1. DESCRIPTION OF PREMISES:

CITY hereby grants to LICENSEE the right, license, and privilege of using the property owned by CITY located at, Delray Beach, Florida 33444, which is more particularly described on Exhibit "A," attached hereto and made a part hereof ("Licensed Premises"), in accordance with the terms of this Revocable License Agreement. In addition, CITY shall provide access to a small locked storage space to secure equipment used by LICENSEE in the performance of this license agreement.

2. TERM AND RENEWALS:

This Revocable License Agreement becomes effective on the date it is approved by the City Commission of the City of Delray Beach and is fully executed by both parties and terminates on the three-year anniversary of such date, unless sooner terminated as per the terms of this Revocable License Agreement. CITY, acting through its City Manager, may renew this Revocable License Agreement for three (3) additional one (1) year terms upon sixty (60) days' written notice from LICENSEE, before the end of the then current term, of its desire to renew this Revocable License Agreement. CITY, acting through its City Manager may

terminate this Revocable License Agreement as indicated under Section 11, TERMINATION. Notwithstanding anything herein to the contrary, the parties agree that Licensed Premises is a part, this Revocable License Agreement shall terminate without any further action.

COMPENSATION:

LICENSEE agrees to pay to CITY, as total compensation for the privileges granted herein, the total sum of ONE DOLLAR (\$1.00) on the first day of the term, and on any renewal thereof, in advance, so long as this Revocable License Agreement is in full force and effect. LICENSEE shall pay all sales and use taxes levied or assessed under this Revocable License Agreement.

3. USE OF LICENSED PREMISES:

a. LICENSEE, its employees, agents, or contractors shall use and occupy the Licensed Premises only to provide services as described in the Scope of Services as set forth in Exhibit "B". The Licensed Premises shall not be used for any other purpose whatsoever without written consent of CITY. LICENSEE covenants that it will not, without written consent of CITY, permit the Licensed Premises to be used or occupied by any person, firm, entity, or corporation other than LICENSEE, its employees, agents, or contractors. LICENSEE further covenants that no nuisance or hazardous trade or occupation shall be permitted or carried on, in, or upon said Licensed Premises, that no act shall be permitted and nothing shall be kept in or about said Licensed Premises that will increase the risk of any hazard, fire, or catastrophe, and that no waste shall be permitted or committed upon or any damage done to said Licensed Premises. LICENSEE shall not permit the Licensed Premises to be used or occupied in any manner which will violate any laws or regulations of any governmental authority.

b. Prior to initiating any food service, LICENSEE must provide to the City an active permit to operate a food service establishment as required by law. LICENSEE shall maintain an active food service permit throughout the term of this license agreement.

c. CITY agrees to assign City staff, selected by the City in its sole discretion, to the Premises for a period not to exceed twenty five (25) hours per week to assist Licensee in the performance of this license agreement. City staff who are assigned to this license agreement shall attend all required training meetings and all monthly dining site meetings, and shall assist LICENSEE in recruiting volunteers to assist with the meal program.

4. ALTERATIONS AND IMPROVEMENTS TO LICENSED PREMISES:

LICENSEE may not make any alteration, adjustment, partition, addition, or improvement to the Licensed Premises, or any part thereof, without obtaining prior written consent of CITY. All requests by LICENSEE shall be in writing and shall contain all pertinent plans and specifications. All alterations, adjustments, partitions, additions, or improvements shall, at the CITY's sole discretion, remain the exclusive property of CITY or be removed by LICENSEE upon CITY's request. In the event that CITY shall request removal, LICENSEE shall perform, at its sole cost, removal in a manner that shall return the Licensed Premises to the condition in which it was received. Any costs necessary to restore or prepare the Licensed Premises for return shall be the sole responsibility of LICENSEE.

LICENSEE shall keep the Licensed Premises in a clean, safe, and sanitary condition.

5. ASSIGNMENT OR SUBLETTING:

LICENSEE shall have no authority to assign all or any portion of the Licensed Premises during any term of this Revocable License Agreement except to an affiliate of LICENSEE. Should LICENSEE attempt to assign this Revocable License Agreement other than to an affiliate of LICENSEE, then the Revocable License Agreement shall be terminated forthwith, automatically, by operation of this clause, without prior notice to LICENSEE.

6. PERSONAL PROPERTY AND DAMAGE:

LICENSEE agrees that all personal property placed upon the Licensed Premises shall remain the property of LICENSEE, and shall be placed upon the Licensed Premises at the risk of LICENSEE. LICENSEE shall give to CITY, or its agent, prompt written notice, in compliance with the provisions of Section 16, Notices, below, of any occurrence, incident, or accident occurring on the Licensed Premises. In the event that any damage should occur to the Licensed Premises, LICENSEE shall promptly notify CITY.

7. INSPECTIONS:

CITY or its agents, or any authorized employee of said agent, may enter upon said Licensed Premises at all reasonable times and hours to examine same to determine if LICENSEE is properly maintaining the Licensed Premises according to the terms of this Revocable License Agreement.

8. INDEMNIFICATION:

LICENSEE shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend CITY, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, LICENSEE, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Revocable License Agreement, including, without limitation, any and all claims, losses, liabilities, expenditures, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against CITY by reason of any such claim, cause of action, or demand, LICENSEE shall, upon written notice from CITY, resist and defend such lawsuit or proceeding by counsel satisfactory to CITY or, at CITY's option, pay for an attorney selected by CITY Attorney to defend CITY. The obligations of this section shall survive the expiration or earlier termination of this Revocable License Agreement. To the extent considered necessary by CITY, any sums due to LICENSEE under this Revocable License Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Revocable License Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

If LICENSEE uses a subcontractor, LICENSEE shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 9.

9. INSURANCE:

10.1 LICENSEE shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Revocable License Agreement (unless otherwise provided), the insurance coverage set forth in this Article, in accordance with the terms and conditions required by this Article.

10.2 Such policy or policies shall be without any deductible amount unless otherwise noted in this Revocable License Agreement and shall be issued by approved companies authorized to do business in the State of Florida, with an AM Best financial rating of A- or better. LICENSEE shall pay all deductible amounts, if any. LICENSEE shall specifically protect the City of Delray Beach by naming the City of Delray Beach as an additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage. The official title of the certificate holder is City of Delray Beach. This official title shall be used in all insurance documentation.

- 10.3 Commercial Liability Insurance. A Commercial Liability Insurance Policy shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of One Million Dollars (\$1,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Liability Policy as filed by the Insurance Services Office without restrictive endorsements excluding or limiting coverage for:

Premises and/or operations.

Explosion, Collapse and Underground Hazards

Independent contractors.

Products and/or Completed Operations for contracts.

Broad Form Contractual Coverage applicable to this specific Revocable License Agreement, including any hold harmless and/or indemnification agreement.

Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

- 10.4 Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in the minimum amount required by Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable federal laws.
- 10.5 LICENSEE shall furnish to CITY proof of insurance such as Certificate of Insurance and endorsements, Declarations pages or policies evidencing the insurance coverage specified by this Article within fifteen (15) calendar days of notification of award of the Revocable License Agreement. SECOND PARTY's failure to provide to CITY the Certificates of Insurance or endorsements evidencing the insurance coverage within fifteen (15) calendar days shall provide the basis for the termination of the Revocable License Agreement.
- 10.6 Coverage is not to cease and is to remain in force until all performance required of LICENSEE is completed. All policies must be endorsed to provide CITY with notice of expiration, cancellation and/or restriction. If

any of the insurance coverage will expire prior to the completion of the work, copies of renewal policies shall be furnished upon expiration.

- 10.7 CITY reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Revocable License Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements. If LICENSEE uses a subcontractor, LICENSEE shall ensure that subcontractor names CITY as an additional insured.

10. TERMINATION:

This Revocable License Agreement is merely a right to use, and grants no estate in the Licensed Premises. This Revocable License Agreement may be canceled by LICENSEE or CITY, acting through its City Manager, with or without cause, at any time during the term hereof. It is expressly understood by the parties that LICENSEE is receiving from CITY a revocable license, which may be terminated at any time by CITY for any or no cause whatsoever.

11. MAINTENANCE, REPAIR, AND DAMAGE OF LICENSED PREMISES:

It shall be the responsibility of LICENSEE to keep the Licensed Premises clean, safe, sanitary, and free from trash and debris. The upkeep and maintenance of all areas herein used by LICENSEE shall be borne by LICENSEE, and LICENSEE agrees to maintain the Licensed Premises in accordance with the terms and conditions of this Revocable License Agreement and consistent with prudent and well-reasoned maintenance procedures and techniques.

LICENSEE shall be fully responsible for damage of any kind or nature to the Licensed Premises and CITY property located thereon caused by the use of the Licensed Premises by LICENSEE or invitees of LICENSEE. LICENSEE shall be fully responsible for any and all repairs or replacement deemed necessary by CITY to return the Licensed Premises and CITY property to the condition existing at the commencement of this Revocable License Agreement, normal wear and tear excluded. LICENSEE shall give to CITY, or its agent, prompt written notice, in compliance with the provisions of Section 16 below, NOTICES, of any occurrence, incident, or accident occurring on the Licensed Premises. In the event any damage should occur to the Licensed Premises, LICENSEE shall promptly notify CITY.

CITY has no knowledge of any issue or condition of the Licensed Premises that would make such Licensed Premises unsafe to LICENSEE's personnel, such as environmental hazards, hazardous substances/materials, and structural and mechanical deficiencies.

13. 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.

14. SURRENDER UPON TERMINATION:

LICENSEE shall peaceably surrender and deliver the Licensed Premises to CITY, or its agents, immediately upon expiration of the revocable license term or upon termination of this Revocable License Agreement.

LICENSEE further agrees that it will leave the Licensed Premises in the condition existing at the commencement of this Revocable License Agreement, all alterations, adjustments, partitions, additions, or improvements excepted, and normal wear and tear excepted, subject to the repair and maintenance obligations provided in this Revocable License Agreement.

15. MATERIALITY AND WAIVER OF BREACH:

CITY and LICENSEE agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Revocable License Agreement, and that each is, therefore, a material term hereof.

CITY's failure to enforce any provision of this Revocable License Agreement shall not be deemed a waiver of such provision or modification of this Revocable License Agreement. A waiver of any breach of a provision of this Revocable License Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Revocable License Agreement.

16. NOTICES:

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set

forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

Notice to CITY shall be addressed to:

City of Delray Beach,
100 NW 1st Avenue
Delray Beach, FL 33444
Attn: City Manager

Notice to the LICENSEE shall be addressed to:

Mae Volen Senior Center, Inc.
1515 W. Palmetto Park Road
Boca Raton, FL 33486
Attention: Director of Compliance

17. INDEPENDENT CONTRACTOR:

LICENSEE is an independent contractor under this Revocable License Agreement. Services provided by LICENSEE pursuant to this Revocable License Agreement shall be subject to the supervision of LICENSEE. In providing such services, neither LICENSEE nor its agents shall act as officers, employees, or agents of CITY. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Revocable License Agreement.

18. CONTINGENCY FEE:

LICENSEE warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for LICENSEE, to solicit or secure this Revocable License Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for LICENSEE, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Revocable License Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Revocable License Agreement without liability at its discretion, or to deduct from the Revocable License Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

19. THIRD PARTY BENEFICIARIES:

Neither LICENSEE nor CITY intends to directly or substantially benefit a third party by this Revocable License Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Revocable License Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Revocable License Agreement.

20. COMPLIANCE WITH LAWS:

LICENSEE shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Revocable License Agreement.

21. SEVERANCE:

In the event this Revocable License Agreement or a portion of this Revocable License Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or LICENSEE elects to terminate this Revocable License Agreement. The election to terminate this Revocable License Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

22. JOINT PREPARATION:

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Revocable License Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

23. PRIORITY OF PROVISIONS:

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Revocable License Agreement by reference, and a term, statement, requirement, or provision of this Revocable License Agreement, the term, statement, requirement, or provision contained in this Revocable License Agreement shall prevail and be given effect.

24. JURISDICTION, VENUE, WAIVER OF JURY TRIAL:

This Revocable License Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Revocable License Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Fifteenth Judicial Circuit in Palm Beach County, Florida, and venue for litigation arising out of this Revocable License Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS REVOCABLE LICENSE AGREEMENT, LICENSEE AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS REVOCABLE LICENSE AGREEMENT.**

25. PRIOR AGREEMENTS:

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, including but not limited to the Older Americans Act Congregate Meals Program: Facility Agreement between the City of Delray Beach and the Mae Volen Senior Center, Inc., dated June 9, 2008. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this License that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

26. INCORPORATION BY REFERENCE:

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibit "A" is incorporated into and made a part of this Agreement.

27. REPRESENTATION OF AUTHORITY:

Each individual executing this Revocable License Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Revocable License Agreement, duly authorized by all necessary and appropriate action to execute this Revocable License Agreement on behalf of such party and does so with full legal authority.

28. MULTIPLE ORIGINALS:

This Revocable License Agreement may be executed in four (4) copies, each of which shall be deemed to be an original.

29. PUBLIC RECORDS

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

- a. Contractor shall comply with public records laws, specifically to:
- i. Keep and maintain public records required by the City to perform the service.
 - ii. Upon request from the City's custodian of public records, provide the City 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 Florida Statute or as otherwise provided by law.
 - iii. 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 Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
 - iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of

public records, in a format that is compatible with the information technology systems of the City.

- v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

30.

INSPECTOR GENERAL:

LICENSEE is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matter relating to the negotiation and performance of this contract and may demand an obtain records and testimony from LICENSEE and its sub licensees and lower tier sub licensees. LICENSEE understands and agrees that in addition to all other remedies and consequences provided by law, the failure of LICENSEE or its sub licensee or lower tier sub licensees to fully cooperate with the Inspector General when requested may be deemed by the CITY to be a material breach of this Agreement justifying its termination.

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

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

By: _____
City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to Form:

By: _____
City Attorney

WITNESSES:

MAE VOLEN SENIOR CENTER, INC.

(Name printed or typed)

By: Elizabeth Lugo
Print: Elizabeth Lugo, President/CEO

(Name printed or typed)

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ (name and title of officer or agent) of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ (type of identification) as identification and did (did not) take an oath.

Signature of Notary Public - State
of Florida

**EXHIBIT A:
LICENSED PREMISES**

