ORDINANCE 2023-11

ORDINANCE OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH AMERICAN YOUTH FOOTBALL INC., and AMERICAN YOUTH CHEER, as Members of PINELANDS JR. WILDCATS FOR THE USE OF FIELDS AT SPORTS COMPLEX DRIVE

WHEREAS, American Youth Football Inc., and American Youth Cheer as Members of Pinelands Jr. Wildcats (hereinafter "Lessee") wish to enter into an agreement with the Township of Little Egg Harbor for the use of fields at Sports Complex Drive; and

WHEREAS, N.J.S.A. 40A:12-14(c) permits the lease of any real property to a nonprofit corporation for nominal consideration; and

WHEREAS, under the terms of the Agreement, the Lessee shall pay rent in the amount of $1.00 per year for a term of five years; the leasehold is the Township Fields located at Sports Complex Drive and shall be used for Youth Sports Programs for area residents; and

WHEREAS, the Township Administrator shall be responsible for the enforcement of the conditions of the lease; and

WHEREAS, the lessee shall annually submit a report to the Township Administrator setting out the use to with the leasehold was put during the year, the activities undertaken by the Lessee in furtherance of the public purpose for which the leasehold was granted; the approximate value or cost, if any, of such activities in furtherance of such purpose; and an affirmation of the continued tax-exempt status of the Lessee pursuant to both Federal and State Law; and

WHEREAS, it is the desire of the Township Committee to authorize the execution of a Lease Agreement with American Youth Football Inc., and American Youth

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Cheer, as Members of Pinelands Jr. Wildcats for the use of Township Fields at Sports Complex Drive substantially in the form of the proposed agreement attached hereto and incorporated herein as Schedule "A".

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Little Egg Harbor, as follows:

SECTION 1. That the governing body does hereby authorize the execution of a Lease Agreement with American Youth Football Inc., and American Youth Cheer, as Members of Pinelands Jr. Wildcats for the use of Township Fields at Sports Complex Drive substantially in accordance with the terms of said agreement attached hereto and made a part hereof as Schedule A. The form of said final agreement is subject to the approval of the Township Attorney.

SECTION 2. That the Mayor is hereby authorized to execute and the Township Clerk to attest to a Lease Agreement, and any other documents necessary to effectuate the terms of this resolution.

SECTION 3. That the term of the agreement shall be for five years.

SECTION 4. That a copy of the agreement referenced herein, once executed, shall be kept on file and made available for public inspection at the Township Clerk's Office during normal business hours.

SECTION 5. That a certified copy of this ordinance, together with a copy of the agreement, shall be forwarded to the Township Administrator and American Youth Football Inc., and American Youth Cheer, as Members of Pinelands Jr. Wildcats.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of

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this ordinance is for any reason held to be invalid or unconstitutional by a court 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 hereof.

SECTION 8. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Little Egg Harbor held on the **9th day of March, 2023**, and will be considered for second reading and final passage at a regular meeting of the Township Committee to be held on the **13th** day of **April, 2023**, at **7:00 p.m.**, at the Municipal Building located at 665 Radio Road, Little Egg Harbor, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

KELLY LETTERA, RMC
Township Clerk
Township of Little Egg Harbor

BLAISE SCIBETTA, MAYOR

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SCHEDULE A

LEASE AGREEMENT

THIS LEASE AGREEMENT made this __ day of _____, 2023, by and between the **TOWNSHIP OF LITTLE EGG HARBOR**, a municipal corporation of the State of New Jersey, having its principal offices located at 665 Radio Road, Little Egg Harbor, New Jersey 08087, hereinafter referred to as "Township" or "Landlord" and the **AMERICAN YOUTH FOOTBALL INC. and AMERICAN YOUTH CHEER, AS MEMBERS OF PINELANDS JR. WILDCATS,** a non-profit corporation, with Headquarters located at 1000 S. Pointe Dr., Ste. Th-a9, Miami, FL 33139, hereinafter referred to as "Tenant."

W I T N E S E T H:

WHEREAS, the parties wish to enter into a Use and Lease Agreement for certain athletic fields and facilities located at the Little Egg Harbor Recreation Complex in the Township of Little Egg Harbor, County of Ocean, State of New Jersey.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto do covenant and agree as follows:

1. Premises and Term.

In accordance with the provisions of N.J.S.A. 40A:12-14(c), Landlord does hereby demise and lease to the Tenant, and Tenant does hereby lease from Landlord, that portion of certain athletic fields and facilities located at the Little Egg Harbor Recreation Complex located at Sports Complex Drive in the Township of Little Egg Harbor, (hereinafter referred to as "Premises"), which are necessary for Tenant's purposes under this Lease. The Term (hereinafter called "Term") of this Lease shall be for five (5) years. The Term of this Lease commences on July 1, 2023.

2. Rent.

Tenant shall pay to Landlord as rent (hereinafter referred to as "Rent") for the Premises the sum of **ONE DOLLAR** ($1.00) per year on the First day of July of each year.

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3. **Landlord's Warranties.**

Landlord warrants and represents that the proposed use of the Premises is not in violation of any law, ordinance, requirement or regulation of any governmental authority.

4. **Tenant's Use.**

Landlord and Tenant do hereby agree that during the Term, or any renewal or extension thereof, no portion of the Premises shall be used for any purpose other than in furtherance of the public purposes of the Tenant Organization, nor shall it be used for any purpose contrary to any municipal, county, state or federal regulation or law. A schedule of all activities to be undertaken on the Premises by the Tenant including practices, games, tournaments and all other events sponsored by the Tenant shall be provided to the Township Administrator and the Superintendent of Public Works, or other Township employee designated by the Township to be the liaison to recreational sports, at least thirty (30) days prior to the beginning of each season, summer, spring, fall, and winter seasons inclusive.

5. **Other Uses.**

Landlord and Tenant do hereby agree that during the Term, or any renewal or extension thereof, no portion of the Premises shall be used for any purpose other than in furtherance of the public purposes of the Tenant Organization, nor shall it be used for any purpose contrary to any municipal, county, state or federal regulation or law.

6. **Assignment of Lease.**

Tenant is not permitted to sublet or assign this Lease.

7. **Termination of Lease.**

This Lease shall terminate upon: a) the expiration of the Term of the Lease; or b) the mutual written agreement of Tenant and Landlord prior to the expiration of the Lease Term. However, if Tenant commits or allows a material breach of the Lease terms to occur, and Tenant fails to cure the breach within ninety (90) days after receiving written demand from Landlord to cure the breach of the Lease terms, Landlord may terminate the Lease. Tenant shall, at the expiration of this Lease, surrender the Premises in as good condition as the same shall have been

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at the time of possession thereof was delivered to Tenant, except for ordinary wear and tear.

8. Services.

Landlord shall be responsible to pay directly to the utility companies, upon receipt of invoice for same, the charge for all utilities, including, but not limited to, natural gas, electricity, sewer and water, as necessary to operate heating, air conditioning, hot water, lighting, office equipment and plumbing systems upon the Premises. Tenant shall be responsible to reimburse Landlord for that portion of any electric bill reasonably attributable to the Tenant's operation of lighting equipment located on the premises.

9. Maintenance and Repairs.

Landlord shall make all repairs to the Premises at its sole cost and expense, unless otherwise provided herein. If repairs are needed to the Premises, Tenant shall notify Landlord, and Landlord shall cause such repairs and/or replacement as are necessary to correct the condition to occur as soon as reasonably possible from the date of the notice.

Landlord shall retain complete custody and control over the Premises. Tenant shall permit Landlord and authorized representatives of Landlord to enter the Premises and have complete access for purposes of making any repairs, performing any work therein, and for any other purpose deemed necessary by Landlord. Tenant shall not perform any repairs or maintenance work on any part of the Premises without prior written consent of the Little Egg Harbor Township Superintendent of Public Works, except that Tenant's officers or volunteer coaches may line the fields prior to any games without said prior written consent. Landlord reserves the right, as part of its consent, to require Tenant's volunteers and representatives who perform work at the Premises to enter into Release Agreements and Hold Harmless Agreements which inure to the benefit of the Township.

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10. Alterations.

Tenant may not make any structural alterations to Premises, including but not limited to buildings, structures, storage facilities or additions, without the prior written consent of the Landlord. Said consent is granted at the sole discretion of Landlord. If any structural

alterations are permitted, they shall be at the sole cost of the Tenant or its chosen contractor(s), and provided that they shall not adversely affect structural soundness of the Premises. Tenant shall provide Landlord with a plan for any alterations proposed for the Premises and Landlord shall use its discretion as to the reasonableness of any plans for alterations, and propose amendments as necessary to protect the integrity of Premises.

11. Damage or Destruction.

In the case of the total destruction of the Premises by any cause whatsoever either during the Term or prior thereto, or during any renewal or extension period thereof, or in the case of such partial destruction thereof as to render the Premises untenable and unfit for Tenant's occupancy, then in any such event, the Term shall cease and terminate as of the date of such damage or destruction, and the Rent, including Rent paid in advance shall be adjusted and apportioned as of the date of such damage or destruction.

Landlord reserves the right to seek reimbursement from Tenant for damages caused to Premises as a result of acts of Tenant, Tenant's agents or representatives, or Tenant's invitees or licensees.

12. Use of Premises by Tenant and others.

Tenant recognizes and acknowledges that the Premises are public property designed for the benefit of the public and that, accordingly, the premises shall be available for the use of the general public and other organizations and entities as approved by Landlord, subject to Tenant's reasonable needs for the use of the Premises, in whole or in part, at any given time. Accordingly all use of the Premises, including but not limited to practice and game scheduling and any maintenance or construction activities, shall be coordinated with, and schedule through the Township. paying the Rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet, peaceful and uninterrupted possession of the Premises for the entire Term thereof, subject to all the provisions and conditions of this Lease.

13. Condemnation.

If the Premises, or any part thereof, or any estate therein, or any other part of the

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Premises materially affecting Tenant's use of the Premises be taken by federal, state, county or other authority for public use under any statute or by virtue of eminent domain, this Lease may be terminated at the election of either party, and the Rent, and additional rent, if any shall be apportioned as of the date of such termination, and any Rent paid for any period beyond such date of termination shall be repaid to Tenant. Tenant shall not be entitled to any part of the award or any payment in lieu thereof, the Tenant may file a claim against the condemner for any taking of fixtures and improvements owned by or paid for by Tenant and for relocation expenses. In addition thereto, the Tenant agrees to execute and deliver any instruments, at the expense of the Landlord, as may be deemed necessary or required, to expedite any condemnation proceedings or to effectuate a proper transfer of title to such governmental or other public authority, agency, body or public utility seeking to take or acquire the said lands and Premises or any portion thereof. The Tenant covenants and agrees to vacate said Premises, remove all of the Tenant's personal property therefrom and deliver up peacefully possession thereof to the Landlord or to such other party designated by the Landlord in the aforementioned notice. Failure by the Tenant to comply with any provisions in this clause shall subject the Tenant to such costs, expenses, damages and losses as the Landlord may incur by reason of the Tenant's breach hereof.

14. <u>Signs.</u>

Tenant may affix signs to structures on Premises, subject to the approval of the Township Administrator. Said signs shall contain no offensive or inappropriate content as determined by the Township Administrator and shall be limited to the following: a) promotion of Tenant's organization, b) information about Tenant's team or about football and cheer in general, and c) advertising of Tenant's sponsors. Nothing in this paragraph is intended to preclude Tenant from erecting additional signage that the Landlord may agree to at present or in the future. Signs erected without the approval of the Township Administrator are subject to immediate removal by Landlord and may be destroyed by Landlord without any compensation owed Tenant. Landlord retains the right to affix or erect any signage on the Premises during the lease term, and retains the right to provide permit organizations or entities, in addition to Tenant,

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to affix or erect any signage on the Premises during the lease term, at the sole discretion of Landlord.

15. Landlord's Consent.

When Landlord's consent is required, Landlord's consent shall not be unreasonably withheld.

16. Mechanic's Liens Prohibited.

A. Tenant shall not suffer any mechanic's notice of intention or lien claim to be filed against the Premises or Landlord's tract by reason of work, labor, services, or materials performed for or furnished to Tenant or to anyone holding the Premises, or any part thereof, through or under Tenant.

B. If Tenant shall fail to remove or discharge any mechanic's notice of intention or lien claim as described above within ninety (90) days after notice or knowledge of the filing of same, then in addition to all other rights of Landlord hereunder or by law upon a default by Tenant, Landlord may, at its option, procure the removal or discharge of same. An amount paid by Landlord for such purpose, including all reasonable attorney's fees and other expenses therefore, shall become due and payable by Tenant to Landlord upon demand as additional rent.

17. Costs.

It is expressly understood between the Landlord and Tenant that the Tenant shall be responsible to pay and/or reimburse the Landlord for all costs associated with the lease of the Premises by Tenant from Landlord which are over and above natural wear and tear by Tenant.

18. Successor and Assigns.

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto.

19. Insurance.

Tenant shall provide general liability coverage, including premises, personal and bodily injury, and property damage, for Premises and shall provide a certificate of insurance which names Landlord as an additional insured. The limit of coverage shall not be less than

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$1,000,000 combined single limit, each occurrence.

20. Code of Conduct; Alcoholic Beverages Prohibited.

Tenant shall agree to abide by the Code of Conduct, as promulgated by the State pursuant to P.L. 2002, c. 74, a copy of which is attached hereto and designated as Schedule B. Tenant's designated representative shall be responsible for distributing copies of said Code of Conduct to all participants and their parents or guardians.

Tenant and participants in Tenant's activities on the Premises shall not be permitted to use or serve alcoholic beverages upon the Premises.

21. Fund-Raising.

With the exception of concession stand operations, Tenant shall notify Landlord of all fund-raising activities prior to conducting said activities. Tenant shall use best efforts to avoid 'door-to-door' solicitation for funds or for sale of merchandise. Tenant shall designate an adult representative responsible for Tenant's fund-raising activities and to act as a liaison to Landlord regarding the above notice of activities.

22. Certification of Coaches; complaints

Tenant is encouraged to require that all coaches and assistant coaches complete the Coaches' Certification Course sponsored by Rutgers University, on an annual basis, or other training course which complies with N.J.S.A. 2A:62A-6(c)(2) and N.J.A.C. 5:52-1.1 to -1.6. Tenant represents that pursuant to N.J.S.A. 15A:3A-2, as a nonprofit youth serving organization, it requests criminal history record background checks to be performed on each of its prospective and current employee or volunteers of its organization.

23. Tournaments; Use of Premises.

Tenant may sponsor tournaments upon the Premises. Tournaments not sponsored by Tenant are prohibited upon the Premises. All tournaments, with the exception of playoffs, shall be coordinated with, and scheduled through, the Township Superintendent of Public Works, or such employee designated by the Township Administrator to be the liaison to recreational sports. All covenants and conditions as to use of the Premises herein by Tenant are applicable to Tenant-sponsored tournaments. Tenant shall be responsible for reimbursement of overtime costs incurred by Landlord for additional repair and maintenance of Premises needed as a result of a tournament. Maintenance and repair of Premises for Tenant's tournaments shall be performed

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exclusively by Township Department of Public Works, except that minor maintenance may be performed by Tenant's officers or volunteer coaches if Department of Public Works personnel are unavailable.

24. Resident Preference.

Tenant shall give priority to Township residents at all times for participation in the Tenant Organization, up to the closing date of registration. Tenant shall accept non-residents if space permits after no other Township residents seek to participate. Tenant shall not preclude any Township resident from participating in activities based solely on an inability to pay registration fees because of financial difficulties, or due to an inability to participate in fund-raising activities.

25. Other Uses.

Tenant shall comply with the requirements of the provisions of the Township Code, and any other applicable code provisions or laws as to the use of those portions of which are not a part of the Premises.

26. Americans with Disabilities Act Requirements.

Tenant agrees to act in good faith to comply with the requirements of the American with Disabilities Act and to coordinate its policies with Landlord through the Township ADA Compliance Officer.

27. Other Agreements.

Any agreements Tenant enters into with third-party sponsors regarding use of the Premises may not exceed a term of one year, or the remaining term of this Lease, whichever is longer, and may not be entered into without the express written consent of the Landlord.

28. Annual Report; Other Reports.

Tenant shall submit a report to the Township Administrator on an annual basis in accordance with N.J.S.A. 40A:12-14(c). Said report shall set out the use to which the Premises were put during the year preceding, the activities undertaken in furtherance of the public purpose for which the leasehold was granted, the approximate value or cost, if any, of such activities in

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furtherance of such purpose, and an affirmation of the continued tax-exempt status of the nonprofit corporation pursuant to both State and Federal Law. Tenant shall also submit a report to the Township Administrator, on a form acceptable to Landlord, regarding registration for the preceding year. Tenant shall submit an annual financial statement, in a form acceptable to Landlord, within thirty (30) days of the completion of the regular season or by October 1st of the current year, whichever is earlier, accounting Tenant's operations within the previous twelve (12) months.

Tenant shall submit a copy of its organizational By-laws to the Township Administrator upon execution of this Lease. Tenant shall submit updated By-laws to the Township Administrator annually upon the anniversary of the execution of this Lease. If the By-laws have not been modified, Tenant may, in the alternative, submit a statement representing that there have been no changes to the By-laws previously submitted to Landlord.

29. <u>Pronouns.</u>

The use of the neuter singular pronoun in referring to Landlord shall, nevertheless, be deemed proper reference even though Landlord may be an individual, a corporation, a partnership or a group of two or more individuals or corporations.

30. <u>Entire Agreement.</u>

This Lease embodies the entire agreement between the parties and supersedes all prior Agreements, understandings, statements, representations and negotiations between the parties with respect to its subject matter, including the original Lease Agreement. There are no promises, terms, conditions or obligations referring to the subject matter, other than those contained herein. There may be no modification of this Lease, except in writing, executed by both Tenant and Landlord with the same formalities as this Lease.

31. <u>Caption.</u>

The captions are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Lease nor the intent of any provision thereof.

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32. Force Majeure.

The period of time during which Landlord is prevented from performing any act required to be performed under this Lease by reason of fire, catastrophe, acts of God, or of the public enemy, governmental prohibitions, embargoes, inability to obtain materials, or substitute materials, or labor by reason of governmental regulations or prohibitions, or other events beyond the reasonable control of the Landlord, shall be added to the time for performance of such act, and Landlord shall not be liable to Tenant or in default under this Lease as the result thereof.

33. Notice.

Any notice by either party to the other shall be in writing and shall be deemed to have been duly given only if delivered personally or sent by registered mail or certified mail in a postpaid envelope addressed, if to Tenant, to the Tenant's local Representative, **Roberta Rapisardi (phone: 973-809-0318 and email: Pinelandsayf@gmail.com)**; if to Landlord, at Landlord's address as set forth above; or to either at such other address as Tenant or Landlord respectively, may designate in writing. Notice shall be deemed to have been duly given, if delivered personally, on delivery thereof, and if mailed, upon the 10th day after the mailing thereof.

34. Agreement Made in New Jersey.

This Agreement has been made in and shall be construed in accordance with the laws of the State of New Jersey. All duties, obligations and liabilities of the Landlord and Tenant with respect to this Lease Agreement are expressly set forth herein, and this Lease Agreement can only be amended in writing and agreed to by both parties.

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IN WITNESSETH WHEREOF, the parties hereto have set their hand and seal the _____ day, of _____, 2023, first written above.

WITNESS & ATTEST:

_____

Township Clerk

(Seal)

TOWNSHIP OF LITTLE EGG HARBOR

By_____

Mayor

AMERICAN YOUTH FOOTBALL, INC. and AMERICAN YOUTH CHEER, as Members of PINELANDS JR. WILDCATS c/o Roberta Rapisardi

_____

(Seal)

By _____
ROBERTA RAPISARDI,
REPRESENTATIVE

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