

**TOWNSHIP OF MILLBURN
ORDINANCE NO. 2652-23
AN ORDINANCE AUTHORIZING THE LEASE OF A
46,500 SQUARE FOOT PORTION OF THE REAL PROPERTY LOCATED AT 1025
SOUTH ORANGE AVENUE, KNOWN AS BLOCK 4407, LOT 19**

STATEMENT OF PURPOSE: *This ordinance is being proposed to authorize the Township to enter into a lease agreement for a portion of the real property located at 1025 South Orange Avenue, in order to provide sports fields for Township's Organized Recreation Program.*

WHEREAS, in accordance with N.J.S.A. 40A:12-5(a)(1) "any municipality, by ordinance, may provide for the acquisition of any real property, capital improvement, or personal property: (1) by purchase, gift, devise, lease, exchange, or condemnation;" and

WHEREAS, the Township of Millburn (referred to as the "Township") has a limited number of fields for organized recreational sports and has determined that additional fields, including practice fields, would be in the best interest of the residents; and

WHEREAS, Congregation B'Nai Jeshurun (referred to as the "Congregation") is the owner of the properties designated on the Tax Map of the Township of Millburn as Block 4407, Lot 19 (referred to as the "Temple Property"); and

WHEREAS, representatives of the Congregation have presented the Township with an opportunity to utilize a portion of the Temple Property for much needed recreational fields to serve Millburn residents; and

WHEREAS, the Temple has approximately 46,500 square feet of land that is an open field adjacent to the rear of the parking lot, which they have offered to lease to the Township to be utilized as practice fields for the soccer program and other organized recreational groups; and

WHEREAS, the Millburn Township Committee has determined that it is in the best interest of the Township of Millburn to lease the 46,500 square foot portion of the property located at 1025 South Orange Avenue, commonly designated as Block 4407, Lot 19 on the Tax Map of the Township of and owned by Congregation B'Nai Jeshurun, as depicted on the map attached to this Ordinance as Exhibit A; and

WHEREAS, the Township has agreed to pay \$2,000.00 per month for the Active Months of April 1 through June 30 and September 1 through November 30, for a two (2) year lease period.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN IN THE COUNTY OF ESSEX AND STATE OF NEW JERSEY, in accordance with N.J.S.A. 40A:12-5(a), as follows:

1. The Township is hereby authorized to enter into a Lease Agreement with Congregation B'Nai Jeshurun for the open field area, and related parking area, located at 1025 South Orange Avenue, as set forth in Exhibit A.

2. The Mayor and Township Clerk are hereby authorized and directed to execute on behalf of the Township an Agreement generally in a form prepared by the Township Attorney and such other documents as are necessary and advisable to lease the subject property with such revisions in said documents as the Township Attorney may advise and the Mayor may approve, such approval to be evidenced by her execution hereof.
3. The sum of \$2,000.00 per month, for the Active Months, as set forth in the lease agreement, shall be appropriated to provide for the cost of lease for the year 2024 and 2025 of the subject property from Congregation B’Nai Jeshurun.
4. The capital budget of the Township is hereby amended to conform with the provisions of the is ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the Township’s capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and available there for inspection.
5. This ordinance shall take effect after final passage and publication as provided by law.

ATTEST:

MILLBURN TOWNSHIP

Christine A. Gatti, Clerk

By: _____
Maggee Miggins, Mayor

Introduced: 10/3/2023
Published: 10/12/2023
Public Hearing/Adopted: 11/21/2023
Published: 11/30/2023

CERTIFICATION

I, Christine A. Gatti, Clerk of the Township of Millburn, in the County of Essex, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Township Committee at a regular meeting held on the 21st day of November, 2023.

Christine A. Gatti, RMC
Township Clerk

Exhibit A
Lease Agreement with Congregation B’Nai Jeshurun (Draft)

LEASE AGREEMENT
TOWNSHIP OF MILLBURN AND
TEMPLE B'NAI JESHURUN
FOR RECREATION FIELDS ON
BLOCK 4407, LOT 19

This Lease Agreement (the Lease”) is entered into on _____, 2023, by and between TEMPLE B'NAI JESHURUN, having offices at 1025 South Orange Avenue, Short Hills, New Jersey 07078, (“Temple” or the “Landlord”) and the TOWNSHIP OF MILLBURN, a municipal corporation of the State of New Jersey, with offices at 375 Millburn Avenue, Millburn, New Jersey 07041 (the “Township” or “Millburn” or the “Tenant”).

WHEREAS, the Township has a limited number of fields for organized recreational sports and has determined that additional fields, including practice fields, would be in the best interest of the residents; and

WHEREAS, the Temple is the owner of the properties designated on the Tax Map of the Township of Millburn as Block 4407, Lot 19 (referred to as the “Temple Property”); and

WHEREAS, representatives of the Temple have presented the Township with an opportunity to utilize a portion of the Temple Property for much needed recreational fields to serve Millburn residents; and

WHEREAS, the Temple has approximately 46,500 square feet of land that is an open field adjacent to the rear of the parking lot, which they have offered to lease to the Township to be utilized as practice fields for the soccer program and other organized recreational groups; and

WHEREAS, pursuant to N.J.S.A. 40A:12-5(a)(1), any municipality, by ordinance, may provide for the acquisition of any real property by lease.

WHEREAS, by Ordinance of the Township Council adopted on October 3, 2023, the Parties have agreed to enter into a Lease Agreement; and

NOW THEREFORE, the Congregation, as the Landlord hereunder, and the Township, as the Tenant hereunder, do hereby agree as follows:

1. DEMISE OF PREMISES.

Landlord does hereby lease and demise to Tenant, and Tenant does hereby hire and take from Landlord, for the Term of this Lease provided for in Section 2 below, and upon and subject to the covenants, agreements, terms, provisions and conditions of this Lease, a portion of the premises, comprised of the grass field and related parking area, which will be only be utilized during organized or permitted practices, commonly known as 1025 South Orange Avenue, and designated as Block 4407, Lot 19, on the Tax Maps of the Township of Millburn, Essex County,

New Jersey, as more particularly described in Exhibit A attached hereto and made a part hereof (the “Premises”).

2. TERM.

The Term of this Lease (the “Term”) shall commence on the date of this Lease (the “Commencement Date”) and terminate two (2) years thereafter or on such other earlier date as the Term of this Lease may be terminated pursuant to the provisions of this Lease or pursuant to law (the “Termination Date”). The Parties may agree to a 5-year extension of said lease. Notwithstanding anything to the contrary in this Lease, Tenant may terminate this Lease, without the necessity for cause or justification, on fifteen (15) days’ prior written notice to Landlord. Landlord may terminate this Lease, without the necessity for cause or justification, on ninety (90) days’ prior written notice to the Tenant. In which event the date of termination stated in such notice shall be deemed the Termination Date under this Lease.

The Tenant will utilize the Premises from April 1 through June 30 and from September 1 through November 30, of each year (“Active Months”). Tenant shall have access to the Premises throughout the year for purposes of maintenance. The Tenant will not utilize the Premises for any reason on High Holy Days, as set forth generally in Exhibit B, attached hereto and made a part hereof. The specific dates for the High Holy Days for each calendar year shall be provided to the Director of Recreation and Parks, on a yearly basis, no later than January 31.

3. RENT.

A. Payment of Rent. On the Commencement Date, Tenant shall pay to Landlord, as Fixed Rent for the Term of this Lease, the amount of Two Thousand (\$2,000.00) Dollars per month (“Rent”). The Rent shall be payable by the first of each month in which the field space is utilized. Rent can be prorated for months that are only partially utilized.

B. No Set-off. Tenant does hereby covenant and agree to pay the Rent herein reserved as and when the same shall become due and payable, without demand therefor and without any set-off or deduction whatsoever, and to keep and perform, and to permit no violation of, each and every one of the covenants, agreements, terms, provisions and conditions herein contained on the part and on behalf of Tenant to be kept and performed.

C. Security Costs. The tenant shall be responsible for any additional security costs that are borne by the landlord due to the tenant’s use of the property. The tenant shall not be responsible for any security costs already incurred by the landlord and not as a direct result of this use. A detailed estimate of those costs will be provided to the tenant prior to the start of each season based on the projected use by the tenant.

4. USE OF PREMISES.

The Premises shall be used by the Township’s organized sports programs (“designated users”) as practice fields, subject to the terms of this lease agreement. Use of the grass fields, shall include the use of the parking area directly adjacent to the field as shown in Appendix A. No bleachers or spectator areas will be permitted. Neither Tenant, nor anyone acting by or through Tenant, shall use the Premises or any part thereof, or bring anything within the Premises: (i) which would violate any certificate of occupancy for the Premises, any applicable zoning

affecting the Premises, any easement or restrictive covenant benefiting Landlord or third parties, or any of the covenants, agreements terms, provisions and conditions of this Lease, or (ii) which would result in the Premises being used for any unlawful purposes or in any unlawful manner, or in any manner that constitutes a legal nuisance. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business or other activity carried on at the Premises, and if the failure to secure such license or permit would, in any way, affect Landlord, Tenant, at Tenant's expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by Landlord. Tenant, at Tenant's expense, shall, at all times, comply with the terms and conditions of such license or permit.

5. CONDITION OF PREMISES.

Tenant acknowledges that it is using the Premises as of the Commencement Date, and hereby accepts the Premises in vacant, "AS-IS" field-like condition.

6. MAINTENANCE, REPAIRS, AND, ALTERATIONS

A. Maintenance and Repairs.

- (i) Landlord's Responsibilities
 - a. Landlord shall be responsible for the maintenance and repair of the parking area.
 - b. Landlord shall be responsible for mowing and trimming of the lawn area
- (ii) Tenant's Responsibilities
 - a. Tenant shall be responsible for the application of either 20-2-5 Fertilizer, Dimension Herbicide and/or Tenacity Herbicide approximately 4 times per year, at the discretion of the Tenant.
 - b. Tenant shall be responsible for the Slice Seeding/Overseeding of the fields approximately twice a year, at the discretion of the Tenant.
 - c. Tenant shall be responsible for the trimming of trees, as needed to accommodate the use of the Premises, and removal of branches and debris.
 - d. Tenant shall be responsible for the striping or painting of the premises for the indication of fields, as needed.

B. Alterations. Tenant shall not make any significant installations, alterations, additions or improvements to the Premises without first obtaining Landlord's written consent thereto, which Landlord may withhold in its reasonable discretion.

C. Equipment. Tenant's "Equipment", as such term is used in this Lease, shall mean, except as otherwise hereinafter provided, soccer goals, portable lights with related generators, portable bathrooms, trash receptacles, and similar apparatus installed in or located at the Premises by Tenant and paid for by Tenant. Tenant acknowledges and agrees that Landlord shall not be required to carry insurance of any kind on the Equipment, and will have no obligation to repair or restore same after a casualty or condemnation. Any Equipment shall only be located on the Premises during Active Months and shall secure and discretely store large equipment such as goals at an agreed upon location at the site.

D. All equipment belonging to Tenant, its servants, employees, suppliers, consignors, customers, licensees, and invitees located in or about the Premises shall be there at the sole risk

of Tenant and neither Landlord nor Landlord's agents shall be liable for the theft, loss or misappropriation thereof nor for any damage or injury thereto, nor shall Landlord be considered the voluntary or involuntary bailee of such equipment.

E. General Provisions. All alterations, additions, improvements or other maintenance, repair or replacement work performed by Tenant hereunder shall be (i) in conformity with all applicable governmental and insurance company requirements and regulations applicable to the Premises, and (ii) performed by reputable contractors fully paid for by Tenant so that the Premises will be lien free. Upon request, Tenant will furnish Landlord with written evidence that the appropriate governmental agencies have approved any such work. Tenant shall hold and save Landlord harmless and indemnify Landlord against any claim for damages or injury in connection with any of the foregoing work, which Tenant may make as hereinabove provided.

F. Construction Liens. If, because of any acts or omission of Tenant or anyone claiming through or under Tenant, any construction or other lien or order for the payment of money shall be filed against the Premises or Landlord (whether or not such lien or order is valid or enforceable as such), Tenant shall, at Tenant's own cost and expense, cause the same to be cancelled and discharged of record within thirty (30) days after the date of filing thereof, and shall also indemnify and save harmless Landlord from and against any and all costs, expenses, claims, losses or damages, resulting therefrom or by reason thereof.

7. TENANT COVENANTS.

Tenant covenants and agrees as follows:

A. The Millburn Township Recreation Department shall be responsible for the scheduling of field time to designated uses.

B. The fields may be utilized during the week, Monday through Thursday, during the hours of 3:00 p.m. to 8:00 p.m. On Sundays use is permitted from 8:00 a.m. to sundown.

C. The fields shall not be utilized on High Holidays of the Jewish Faith, in any capacity, as set forth in Exhibit B.

8. TENANT'S INSURANCE; INDEMNITY.

A. Required Insurance. Tenant, at its sole cost, shall maintain the following insurance:

(i) General public liability insurance against claims for injury or death or property covering the Premises and Tenant's use thereof, together with contractual liability endorsements covering Tenant's obligations set forth in this Lease, with such limits as the Tenant maintains with respect to its other owned or leased properties, but not less than \$1,000,000.00 each occurrence, \$1,000,000.00 aggregate bodily injury liability, \$300,000 property damage, and \$2,000,000.00 Umbrella Liability Coverage. Third party contractors shall

provide the same insurance. Tenant shall deposit said policy or policies (or certificates thereof) with Landlord prior to the Commencement Date.

B. Requirements of Tenant's Insurance. All insurance policies herein required to be procured by Tenant, and third party contractors, (i) shall be issued by good and solvent insurance companies licensed to do business in the jurisdiction in which the Premises is located and reasonably satisfactory to Landlord; (ii) shall be written as primary policy coverage and not contributing with, or in excess of, any coverage which Landlord may carry; (iii) shall insure and name Landlord any mortgagee as insureds, as their respective interests may appear; and (iv) shall, in the case of property insurance, contain an express waiver of any right or subrogation by the insurance company against Landlord. Each and every insurance policy required to be carried hereunder by or on behalf of Tenant shall provide (and any certificate evidencing the existence of each such policy shall certify) that, unless Landlord shall have first been given thirty (30) days' prior written notice thereof: (1) such insurance policy shall not be cancelled and shall continue in full force and effect; (2) the insurance carrier shall not, for any reason whatsoever, fail to renew such insurance policy; and (3) no material change may be made in such insurance policy. Certificates of Insurance shall not contain language to the effect that the carrier will "endeavor" to mail notice of cancellation or non-renewal. It shall be understood and agreed that Tenant will require its carrier(s) to provide absolute notice of cancellation or non-renewal of policies and/or coverages.

C. Certificates. With respect to each and every one of the insurance policies herein required to be procured by Tenant on or before the Commencement Date and before any such insurance policy shall expire, Tenant shall deliver to Landlord Certificates of Insurance, certified copies of, or duplicate originals of each such policy or renewal thereof, as the case may be, together with evidence of payment of all applicable premiums. Any insurance required to be carried hereunder may be carried under blanket policy covering the Premises and other locations of Tenant, and if Tenant includes the Premises in such blanket coverage, Tenant shall deliver to Landlord, as aforesaid, a duplicate original or certified copy of each such insurance policy or a certificate evidencing such insurance. The term "Insurance Policy," as used herein, shall be deemed to include any extensions or renewals of any such insurance policy. In the event that Tenant shall fail promptly to furnish any insurance coverage herein required to be procured by Tenant, Landlord, at its sole option, shall have the right to obtain the same and pay the premium therefor for a period not exceeding one (1) year in each instance, and the premium so paid by Landlord shall be immediately payable by Tenant to Landlord as Additional Rent.

D. No Limitation on Liability. Neither the issuance of any insurance policy required hereunder, nor the minimum limits specified herein with respect to Tenant's or Landlord's insurance coverage, shall be deemed to limit or restrict in any way Tenant's or Landlord's liability arising under or out of this Lease.

E. Waiver of Subrogation. Each of Landlord and Tenant hereby releases the other and any officer, agent, employee, or representative of such party, from any liability whatsoever hereafter arising from loss, damage, or injury caused by fire or other casualty normally covered by extended coverage policy for which insurance (permitting waiver of liability and containing a

waiver of subrogation) is carried by the injured party at the time of such loss, damage or injury to the extent of any recovery by the injured party under such insurance. Each party shall obtain an endorsement to its respective property insurance policy obtaining a waiver of subrogation.

F. **Indemnity.** To the extent permitted by law, Tenant hereby agrees to indemnify and save harmless Landlord and any mortgagee of the Premises, together with their officers, directors, agents, employees, shareholders, members, partners and other equity holders (an "**Indemnified Party**") against and from any and all claims, actions, suits or proceedings by or on behalf of any person or persons, firm or firms corporations, arising from (i) the conduct or management of or from the Use during the Term, (ii) the possession, use, occupation, management, repair, maintenance or control of the Premises, or any portion thereof by Tenant, during the Term, or (iii) any act or negligence of Tenant, occurring during the Term, or any of its agents, contractors, servants, employees, licensees, customers, or invitees, together with all costs, reasonable attorneys' fees, expenses and liabilities incurred in connection with such claim, action, suit or proceeding. If any action, suit or proceeding be brought against any Indemnified Party by reason of any such claim, Tenant, upon notice from such Indemnified Party, covenants to resist or defend at Tenant's expense, by counsel reasonably satisfactory to such Indemnified Party, such action, suit or proceeding which may be brought against such Indemnified Party. Tenant shall pay, satisfy and discharge any and all judgments, orders, and decrees which may be recovered against any Indemnified Party in connection with the foregoing.

9. **TRASH REMOVAL.**

Under no circumstances shall Landlord be responsible for the removal or disposal of any trash, hazardous materials, controlled substances, biological waste or medical waste which are brought into the Premises by Tenant or which are caused, generated or occasioned by Tenant's use or occupancy of the Premises. Tenant assumes all responsibility and liability for lawful and proper handling, storage, removal and disposal of any such trash and materials.

10. **ASSIGNMENT AND SUBLETTING.**

Tenant shall not assign this Lease or sublease the Premises without Landlord's prior written consent, which consent Landlord may not unreasonably withhold, condition or delay.

11. **COMPLIANCE WITH LAWS.**

Tenant, at Tenant's expense, shall comply with all laws and ordinances, and all rules, orders and regulations ("**Laws**") of all governmental authorities and of all insurance bodies, at any time duly issued or in force, applicable to the Premises or any part thereof or Tenant's use or occupancy thereof. Tenant shall cure all violations of Laws applicable to the Premises during the Term of this Lease, and Tenant shall be responsible for all fines and penalties in connection with any such violations.

12. SUBORDINATION.

This Lease is subject and subordinate in all respects to all mortgages which may now or hereafter be placed on or affect the Premises, and to all substitutions, modifications, consolidations, replacements and extensions thereof. Tenant shall within ten (10) days of the request for same execute and deliver any instrument that Landlord and/or any mortgagee and/or its successors in interest may reasonably request to confirm such subordination.

13. NOTICES.

Any notice, consent, approval, request or demand hereunder by either party to the other party shall be in writing and shall be deemed to have been duly given upon receipt if sent by registered or certified mail with return receipt requested, postage prepaid, or by a nationally recognized overnight receipted delivery service, addressed to Landlord at Landlord's address and to Tenant at Tenant's address, or if the address of such other party for such notices, consents, approvals, requests or demands shall have been duly changed as hereinafter provided, if mailed, as aforesaid, to such other party at such changed address. Receipt shall mean actual delivery to addressee, refusal of addressee to accept delivery or inability of anyone at the address to accept or refuse delivery during normal business hours. Either party may at any time change the address for such notices, consents, approvals, requests, or demands by delivering or mailing, as aforesaid, to the other party a notice stating the change and setting forth the changed address.

14. EVENTS OF DEFAULT.

The following events shall constitute events of default under this Lease:

A. Tenant shall default in the payment of any Rent (including, without limitation any Additional Rent) or other compensation payable hereunder by Tenant to Landlord on any date upon which the same becomes due;

B. Tenant shall fail to vacate the Premises on or before the Termination Date; or

C. Tenant shall default in the due keeping, observing or performance of any covenant, agreement, term, provision or condition of this Lease on the part of Tenant to be kept, observed or performed (other than a default in the payment of Rent), and if such non-monetary default shall continue and shall not be remedied by Tenant within thirty (30) days after Landlord shall have given written notice specifying the same, or, in the case of such a default which for cases beyond Tenant's control cannot with due diligence be cured within said period of thirty (30) days, if Tenant (i) shall not, promptly upon giving of such notice, advise Landlord in writing of Tenant's intention to duly institute and thereafter diligently prosecute to completion all steps necessary to remedy the same, or (ii) shall not remedy the same within a reasonable time after the date of the giving of said notice by Landlord.

15. REMEDIES.

If any event of default occurs under this Lease, Landlord may exercise any one or more of the following remedies, at the sole option of Landlord:

A. Termination; Damages. As may be applicable, Landlord may recover from Tenant a judgment for damages computed in accordance with the following formula, in addition to its other remedies:

- (i) the unpaid Rent which has accrued up to the time of such termination; plus
- (ii) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease, including, without limitation, the cost of repairing the Premises.

B. Notice Required. Upon the expiration of the period stated in Landlord's written notice of termination (and unless such notice provides an option to cure within such period and Tenant cures the default within such period), Tenant's right to possession shall terminate and this Lease shall terminate, and Tenant shall remain liable as hereinafter provided. Tenant hereby waives the right to any other notices under applicable law, or any and all rights to relief from forfeiture, redemption or reinstatement which may be granted by law in the event of Tenant being evicted or dispossessed for any cause or in the event of Landlord obtaining possession of the Premises by reason of Tenant's default or otherwise.

16. CURING TENANT'S DEFAULTS.

If Tenant shall materially default in the keeping, observance or performance of any covenant, agreement, term, provision or condition herein contained beyond any notice and cure period, Landlord, without thereby waiving such default, may perform the same for the account and at the expense of Tenant, provided that Landlord may perform same immediately or at any time thereafter and without notice in the case of emergency, or in case such default will result in a violation of any applicable laws, rules or regulations, or in the imposition of any lien against all or any portion of the Premises. All reasonable and necessary costs and expenses incurred by Landlord in connection with any such performance by it for the account of Tenant and also all costs and expenses, including reasonable attorneys' fees and disbursements incurred by Landlord in any action or proceeding (including any summary dispossess proceeding) brought by Landlord to enforce any obligation of Tenant under this Lease and/or right of Landlord in or to the Premises, shall be paid by Tenant to Landlord within thirty (30) days of written demand, as Additional Rent, together with interest at the Default Rate.

17. WAIVER OF TRIAL BY JURY.

It is mutually agreed by and between landlord and tenant that they shall and hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties

hereto against the other on any matters whatsoever arising out of or in any way connected with this lease.

18. NO WAIVERS.

A. No receipt of money by Landlord from Tenant with knowledge of the breach of any covenant or agreement of this Lease, or after the termination hereof, or after the service of any notice, or after the commencement of any suit, or after final judgment for possession of the Premises, shall be deemed a waiver of such breach, nor shall it reinstate, continue or extend the term of this Lease or affect any such notice, demand or suit.

B. Any failure of Tenant or Landlord to enforce any remedy allowed for the violation of any provision of this Lease shall not imply the waiver of any such provision, even if such violation is continued or repeated, and no express waiver shall affect any provision other than the one(s) specified in such waiver and only for the time and in the manner specifically stated.

C. No delay on the part of Landlord or Tenant in exercising any right, power or privilege hereunder or to seek redress for violation of, or to insist upon strict performance of any covenant or condition of this Lease, shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

D. No act done or thing said by either party or its agents shall constitute a cancellation, termination or modification of, or eviction or surrender under this Lease, or a waiver of any covenant, condition or provision hereof, nor relieve Tenant of Tenant's obligation to pay the Rent hereunder. Any acceptance of surrender, waiver or release by Landlord and any cancellation, termination or modification of this Lease must be in writing and signed by Landlord, or delivered pursuant to the requirements of this Lease.

E. No provision of this Lease shall be deemed waived by Landlord unless such waiver is in writing signed by Landlord.

F. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent herein stipulated and reserved shall be deemed to be other than on account of the earlier stipulated Rent then due and payable, nor shall any endorsement or statement on any check, or letter accompanying any Rent check or payment be deemed an accord and satisfaction, and Landlord may accept the same without prejudice to Landlord's right to recover any balance due or to pursue any other remedy in this Lease provided.

19. PARTIES BOUND.

The covenants, agreements, terms, provisions and conditions of this Lease shall bind and benefit the respective successors, assigns and legal representatives of parties hereto with the same effect as if mentioned in each instance where a party hereto is named or referred to.

20. EXCULPATION.

Notwithstanding anything to the contrary set forth in this Lease, it is specifically understood and agreed by the Parties that there shall be absolutely no personal liability on the part of Landlord or Tenant, nor on the part of Landlord's partners or principals or the Township's Officials, Employees and Consultants, with respect to any of the terms, covenants and conditions of this Lease; such exculpation of personal liability to be absolute and without any exception whatsoever.

21. FORCE MAJEURE.

Neither Landlord nor Tenant shall be required to perform any term, condition, or covenant in this Lease, so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, pandemics, and any other cause not reasonably within the control of Landlord or Tenant and which by the exercise of due diligence Landlord or Tenant is unable, wholly or in part, to prevent or overcome, provided that nothing herein shall excuse any delay in the Tenant's obligation to pay Rent hereunder, and nothing herein shall excuse Tenant from vacating the Premises on or before the Termination Date.

22. QUIET ENJOYMENT.

Landlord covenants that if, and so long as, Tenant is not in default beyond any applicable grace period provided herein with respect to the performance of the terms and conditions on its part to be performed under this Lease, Tenant shall quietly enjoy the Premises without hindrance or molestation by Landlord or by any other person lawfully claiming the same, subject to the covenants, agreements, terms, provisions and conditions of this Lease and to any mortgages to which this Lease is now and may hereafter be subject and subordinate as hereinbefore set forth.

23. SURRENDER; HOLDING OVER.

A. Surrender. Tenant shall quit and surrender the Premises on the Termination Date or earlier termination of this Lease in compliance with all laws, in as good condition as ordinary wear and reasonable use will permit given the Use, free of any and all debris. Tenant shall remove all equipment, dumpsters, personal property items, materials, supplies, and vehicles from the Premises. Subject only to the obligations of Tenant under this Lease that expressly survive expiration or earlier termination of this Lease, once Tenant has fully vacated and surrendered the Premises to Landlord, Tenant shall not be responsible for any costs or expenses associated with the redevelopment, maintenance, repair, environmental investigation or remediation, construction or operation of the Premises. The provisions of this Section 24 shall survive the expiration or earlier termination of this Lease.

B. Holdover. If Tenant remains in possession of the Premises after the expiration of the Term, such possession shall be considered a default under this Lease entitling Landlord to the immediate possession of the Premises. For the purposes hereof, the failure of Tenant to deliver

the Premises in substantially or materially the condition required by Section 28A hereunder shall be deemed to be a holdover.

24. BROKER.

Landlord and Tenant each covenants and represents that it has dealt with no broker in connection with this Lease, and each party agrees to hold the other harmless from any claims for commission or other fees made by any broker claiming to have dealt with such party in connection with this Lease. The provisions of this Section 29 shall survive the expiration or earlier termination of this Lease.

25. USA PATRIOT ACT.

Landlord and Tenant represent to the other, to its knowledge, that neither it nor any of its partners, officers, directors, members or shareholders, as the case may be, (i) is listed on the specially designated nationals and blocked persons list maintained by the Office of Foreign Asset Control, Department of the Treasury ("OFAC") pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) ("Order") and all applicable provisions of title iii of the USA Patriot Act (Public Law No. 107-56 (October 26, 2001)); (ii) is listed on the denied persons list and entity list maintained by the United States Department of Commerce; (iii) is listed on the list of terrorists and list of disbarred parties maintained by the United States Department of State, (iv) is listed on any list or qualification of "designated nationals" as defined in the Cuban Assets Control Regulations 31 C.F.R. part 515; (v) is listed on any other publicly available list of terrorists, terrorist organizations or narcotics traffickers maintained by the United States Department of State, the United States Department of Commerce or any other governmental authority or pursuant to the order, the rules and regulations of OFAC (including without limitation the Trading with the Enemy Act, 50 U.S.C. app. 1-44; the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06; the un repealed provision of the Iraq Sanctions Act, Publ. L. No. 101-513; the United Nations Participation Act, 22 U.S.C. § 2349 as-9; the Cuban Democracy Act, 22 U.S.C. §§ 60-01-10; the Cuban Liberty and Democratic Solidarity Act, 18 U.S.C. §§ 2332d and 233; and the Foreign Narcotic Kingpin Designation Act, Publ. L. No. 106-120 and 107-108, all as may be amended from time to time); or any other applicable requirements contained in any enabling legislation or other executive orders in respect of the Order (the order and such other rules, regulations, legislation or orders are collectively called the "Orders"); (vi) is engaged in activities prohibited in the Orders; or (vii) has been convicted, pleaded nolo contendere, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes or in connection with the Bank Secrecy Act (31 U.S.C. §§ 5311 et seq.).

26. LEASE CONTAINS ALL AGREEMENTS.

Except as otherwise referenced herein, this Lease and any exhibit hereto contain all of the covenants, agreements, terms, provisions and conditions related to the leasing of the Premises hereunder, and Landlord has not made and is not making, and Tenant, in executing and

delivering this Lease is not relying upon, any warranties, representations, promises, or statements except to the extent that the same may expressly be set forth in this Lease.

27. MISCELLANEOUS.

A. The laws of the State of New Jersey shall govern the validity, performance and enforcement of this Lease. The invalidity or unenforceability of any provision hereof shall not affect or impair any other provision.

B. Whenever a neutral singular pronoun refers to Tenant, same shall be deemed to refer to Tenant if Tenant be an individual, a corporation, a partnership or two or more individuals or corporations.

C. The term "Landlord" as used in this Lease shall mean the owner for the time being of the Premises, and if such Premises be sold or transferred, Landlord shall be entirely relieved of all covenants and obligations under this Lease subsequent to such sale or transfer and it shall be deemed, without further agreement between the parties hereto and their successors, that the purchaser on such sale has assumed and agreed to carry out all covenants and obligations of Landlord arising on and after such sale or transfer.

D. Landlord and Tenant agree that the headings and captions used in this Lease are inserted for convenience and reference only and are not to be deemed part of or to be used in construing this Lease. The use of the terms "hereof", "hereunder", "herein", "hereinafter", and words of similar import shall refer to this Lease as a whole, inclusive of any exhibits, and not to any particular Article or subdivision thereof, except when noted otherwise. In the event of any action, suit, dispute or proceeding affecting the terms of this Lease, no weight shall be given to any deletions or striking out of any of the terms of this Lease and no such deletion shall be entered into evidence in any such action, suit, dispute or proceeding nor given any weight therein. Any striking out or deletion of any portion of this Lease was done as a matter of convenience for the purpose of execution and the language omitted is not to be given any weight whatsoever in construing this Lease.

E. Time is of the essence in all provisions of this lease, including all notice provisions.

[Signatures Follow on the Next Page]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first hereinabove set forth.

LANDLORD:

TEMPLE B'NAI JESHURUN

By: _____
Name:
Title:

TENANT:

TOWNSHIP OF MILLBURN

By: _____
Name: Maggee Miggins
Title: Mayor

Exhibit A

Premises



Exhibit B

High Holy Days

**Rosh Hashanah (3 days in September or October)
Yom Kippur (2 days in September or October)**