

LICENSE AND OPERATING AGREEMENT

This is a License Agreement ("License") made this ___ day of November, 2020, by and between the **CITY OF LONG BEACH**, a New York municipal corporation with offices located at 1 West Chester Street, Long Beach, New York 11561 ("Licensor") and the **BARRY & FLORENCE FRIEDBERG JEWISH COMMUNITY CENTER, INC.**, a New York not-for-profit corporation with an address of 15 Neil Court, Oceanside, New York 11572 ("Licensee").

1. **Premises Licensed.** Licensor agrees to license to Licensee and Licensee agrees to license the entire first floor of the building (the "Building") located at 650 Magnolia Boulevard, Long Beach, New York 11561 together with the use of the outdoor playground adjacent to the Building, but excluding the IT utility closet located on the first floor (the "Premises"). The parties agree and acknowledge that Licensor and its guests, employees, agents, and invitees shall be entitled to use of main stairway located inside the front door of the Building in order to access the upper floors of the Building. The internal stairway between the floors, however, shall remain locked and shall not be used by Licensor or Licensee.

2. **Term of License.** Subject to the termination rights of Licensor set forth herein, the initial term (the "Initial Term") of this License shall be for the period commencing on November 18, 2020 (the "Commencement Date") and expiring on December 31, 2025. Licensor shall have possession of the Premises as of the Commencement Date to prepare the Premises for operating the daycare facility. So long as Licensee is not in default under this License, Licensee may request to extend the Initial Term of this License for one additional two-year period (the "Extension Period") by submitting a written request to Licensor (the "Extension Request") one hundred twenty days prior to the expiration of the Initial Term (the "Extension Deadline"). Licensor shall have the right, in its sole discretion, to grant or deny the Extension Request or to conditionally grant such Extension Request. Licensor shall either grant (with or without conditions) or deny such request in writing within thirty (30) days of its receipt of the Extension Request. The Extension Period shall be upon the same terms and conditions as during the Initial Term except for terms modified or added through conditions imposed by Licensor, if any. If Licensee fails to submit an Extension Request prior to the Extension Deadline, such option will be waived. Any reference to the Term of this License shall include any Extension Period.

3. **Additional Rights of Licensor.** Licensor may, at its option, revoke this License at any time upon one hundred twenty (120) days' written notice to Licensee. In the event that Licensee does not vacate the Premises following the date upon which Licensor specified in its notice as the date of revocation, Licensor may repossess the Premises in any manner allowable by law, including a summary or dispossession proceeding. Licensee hereby forfeits and waives any right to recover monetary or other forms of damages, should such a repossession occur. Additionally, should Licensor at any time during the Term of this License require the use of the Premises for governmental purposes or any purpose at all, Licensee agrees to cooperate with Licensor to effectuate such use by Licensor. To that end, Licensor shall be entitled to use of the auditorium space within the Premises during hours when Licensee is not operating the daycare facility.

4. **License Fee.** Licensee agrees to pay a monthly license fee (the "Fee") for the term of this License in the amounts as set forth below commencing on January 1, 2021 and due each and every month thereafter on the first day of the month for the remainder of the Term:

Dates	License Fee
Initial Term:	
January 1, 2021 – December 31, 2021	\$2,750.00 per month
January 1, 2022 – December 31, 2022	\$3,000.00 per month
January 1, 2023 – December 31, 2023	\$4,000.00 per month
January 1, 2024 – December 31, 2024	\$4,400.00 per month
January 1, 2025 – December 31, 2025	\$4,840.00 per month
Extension Period:	
January 1, 2026 – December 31, 2026	\$5,324.00 per month
January 1, 2027 – December 31, 2027	\$5,856.00 per month

Licensee shall pay a late charge of 5% of the amount due for any Fee not received within ten (10) days of the date when due.

5. **Condition and Use of Premises.** Licensee agrees that the Premises shall be used and occupied only for the operation of a daycare facility and for no other purpose without Licensor's prior written consent, which may be withheld, conditioned, or delayed in Licensor's sole discretion. Licensee acknowledges that it has inspected the Premises and Licensee accepts the Premises "as is".

6. **Licensee Licensing Requirements.** Licensee represents and warrants that Licensee has, or will obtain prior to operating, and shall maintain throughout the entire term of this License, a valid childcare provider license issued by New York State to operate the daycare facility. Licensee further represents and warrants that Licensee has and shall maintain throughout the entire Term of this License, accreditation by the Office of Children and Family Services, or an accreditation that is of equal caliber to the Office of Children and Family Services. Licensee shall provide copies of all licenses, permits and approvals required to operate as a daycare facility and any and all accreditation certificates to Licensor prior to commencing operations.

7. **Request for Proposal.** Licensee shall operate the daycare facility in accordance with the standards and requirements as set forth in the Request for Proposals for the Operation and Management of a Day Care Center dated July 14, 2020 ("RFP") issued by Licensor and Licensee's response thereto ("RFP Response"), both of which attached hereto as Exhibit A, and both of which are incorporated herein and made a part of this License. In the event of any conflict between the RFP, the RFP Response and this License, this License shall prevail. Any representations given by Licensee in the RFP Response shall be true as of the date of the execution of this License and throughout the Term. Should Licensee fail to follow the requirements as set forth in the RFP or as indicated and agreed to in the RFP Response (unless such change is otherwise approved by Licensor), such failure shall be deemed an Event of Default (hereinafter defined) under this License.

8. **Repairs and Maintenance.**

(a) **Licensor Repairs.** Licensor shall be responsible for all major structural repairs, maintenance, or replacements of and to the heating, plumbing and electrical systems, the roof or other exterior portions of the Building which are reasonably necessary to maintain the same and to enable Licensee to enjoy possession of the Premises, except for damages caused, in whole or in part, by Licensee, its employees, agents, representatives, customers, clients, guests or invitees (collectively, the "Licensee Parties" and each a "Licensee Party"), for which damages Licensee shall be solely

responsible.

(b) Licensee Repairs. Except for repairs specifically designated to Licensor herein, should Licensee or any Licensee Party damage any part of the Building, including the Premises, then Licensee shall be responsible for 100% of the repair, maintenance, or replacement expenses incurred or necessary in connection with said damage including by way of example but not limitation, such things as broken windows, door repairs, damage to walls, decorations, wall paper, electrical switches, etc. In addition, Licensee shall be responsible for all non-structural interior repairs, maintenance, and replacement expenses with respect to the Premises.

(c) Additional Licensee Maintenance Responsibilities: In addition to the foregoing, Licensee shall be responsible for the following maintenance items:

- (1) Licensee shall be responsible for performing daily custodial duties at the Premises. Licensee shall remove or have removed from the Premises on a daily basis, all rubbish generated by the daycare program. Licensee shall engage the services of an approved carter to remove such rubbish and all garbage cans must be approved by the City of Long Beach. Licensee shall comply with all local, state and federal regulations regarding recycling.
- (2) Licensee shall be responsible for maintaining and cleaning all restrooms located on the first floor of the Building pursuant to a schedule approved by the Licensor.
- (3) Licensee shall be responsible for all pest control inspections and any extermination, if necessary.

(d) Equipment. Licensee shall have the right to use any equipment owned by Licensor and currently situated at the Premises, including, but not limited to, all appliances, and furniture, including playground equipment (the "Equipment"). Prior to commencing operations, Licensee shall work with Licensor to inventory and create a list of the Equipment, which shall be attached hereto as Exhibit B once completed. Additionally, prior to commencing operations, Licensee shall provide to Licensor a proposed maintenance schedule for maintaining the Equipment. In the event any Equipment needs to be repaired or replaced during the Term, Licensee shall be responsible for such repair or replacement at its sole cost and expense. Any repair or replacement of the Equipment shall meet all applicable local, state and federal regulatory requirements. Any Equipment replaced by Licensee which is not fixed to the Building shall remain the property of Licensee and may be removed upon expiration or earlier termination of this License. Any Equipment which is fixed to the Building (regardless of whether it is replacement equipment) shall become the property of Licensor and shall remain at the Premises upon expiration or earlier termination of the License. Notwithstanding the foregoing, should Licensor not wish to own such equipment, Licensee shall remove such equipment upon Licensor's request and repair any damage caused by such removal. Any equipment needed by Licensee to operate the daycare facility in addition to the Equipment shall be provided by Licensee at its sole cost and expense.

9. Taxes. The Building and the land upon which it sits is presently owned by Licensor and is exempt from real property taxes. Licensee shall maintain its not-for-profit status as a condition of this License and shall not engage in any activity or operation that would jeopardize the tax-exempt status of the Premises or Building. Licensee shall be responsible for the payment of all taxes applicable to the operation of the daycare program. Gross receipts shall exclude the amount of any federal, state or city taxes which are paid by the Licensee against its sales.

10. **Security of Premises and Safety Measures.** Licensee shall maintain total security within the Premises. Licensee shall be responsible to secure the Premises and Equipment every evening. Licensee shall establish a plan that provides a system for receiving and releasing children that protects the safety and security of children. Such safety plan shall be submitted to Licensor prior to Licensee commencing operations of the daycare facility.

11. **Government Approvals.** Licensee shall be responsible, at Licensee's sole cost and expense, for obtaining any approvals, licenses or permits required from any government entity for Licensee's lawful operation as a daycare facility.

12. **Indemnity and Insurance.**

(a) **Indemnification.** To the fullest extent of the law, Licensee hereby agrees to defend, indemnify, and hold Licensor and its agents, representatives, employees, contractors, and invitees harmless from and against any and all claims, proceedings, actions, expenses (including attorneys' fees), costs, or other loss or damage to the Premises or for injury, sickness or death to any person on the Premises or in the Building arising out of or related to Licensee's use of the Premises or the Building pursuant to this License.

(b) **Insurance.** Licensee shall purchase and maintain throughout the Term of this License, at its sole expense the following insurance coverages:

- (1) **Commercial General Liability Insurance** in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate on a per location basis;
- (2) **Personal Injury Liability Insurance** in the amount of \$1,000,000;
- (3) **Property Insurance** in the amount of \$1,000,000;
- (4) **Business Interruption Insurance;**
- (5) **Workers' Compensation and Disability Insurance** in the amounts required by statute; and
- (6) **Fire insurance and extended coverage** for the full replacement value of the Building.

All such policies shall be written by a reputable insurance company licensed to do business in the State of New York, name the Licensor as a specific insured party (where applicable) (except for fire insurance and extended coverage, which shall name Licensor as the sole insured), and provide that Licensor will be given notice of any nonpayment of premiums by the Licensee or material changes to such policy at the least thirty (30) days prior to the termination of the Licensee's insurance policy for nonpayment or the effective date of the material changes. Licensee shall furnish a copy of all such insurance policies to the Licensor prior to or simultaneously with the commencement of this License. Notwithstanding the foregoing, the Licensor reserves the right to require higher liability limits for the above insurance policies if, in the opinion of the Licensor, the proposed program warrants the same.

13. **Mutual Waiver of Subrogation.** Notwithstanding any inconsistent provisions of this License, neither of the parties hereto, their respective agents, employees, or invitees shall be liable, and each is hereby released from all liability to the other party, its insurance carrier, or to anyone claiming under or through it by way of subrogation or otherwise, for any loss or damage whatsoever to the Building, including the loss of rental value thereof, or to the Equipment or contents thereof, or to any personal property owned by Licensee, resulting from fire, explosion, or any other insured casualty, regardless of cause or origin, specifically including the negligence of the respective parties hereto, their agents, employees, or guests if any such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required to be covered by insurance. Licensee and Licensor shall require their respective insurance companies to include a standard waiver of subrogation provisions in its policy.

14. **Default.**

(a) **"Event of Default" Defined.** Any one or more of the following events shall constitute an "Event of Default":

- (1) The failure of Licensee to pay the License Fee or other sum of money within ten (10) days of when due.
- (2) Default by Licensee in the performance or observance of any covenant or agreement of this License (other than a default involving the payment of money), which default is not cured within ten (10) days after the giving of notice thereof by Licensor, unless such default is of such nature that it cannot be cured within such ten (10) day period, in which case no Event of Default shall occur so long as Licensee shall commence the curing of the default within such ten (10) day period and shall thereafter diligently prosecute the curing of same.

(b) **Remedies.** Upon the occurrence of an Event of Default, Licensor, without notice to Licensee in any instance (except where expressly provided for below or by applicable law) may do any one or more of the following:

- (1) Perform, on behalf and at the expense of Licensee, any obligation of Licensee under this License which Licensee has failed to perform and of which Licensor shall have given Licensee notice, the cost of which performance by Licensor, together with interest thereon at the maximum rate of interest allowable by law from the date of such expenditure, shall be deemed additional rent and shall be payable to Licensee to Licensor upon demand; or
- (2) Elect to terminate this License by giving 10 days' written notice to Licensee, and reenter the Premises upon the expiration of such time period by summary proceedings or otherwise, and remove Licensee and all other persons and property of Licensee from the Premises, and store such property in a public warehouse or elsewhere at the cost of and for the account of Licensee without resort to legal process and without Licensor being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby. Any costs and expenses incurred by Licensor (including, without limitation, reasonable attorneys' fees) in enforcing any of its rights or remedies under this License shall be deemed to be additional rent

and shall be repaid to Licensor by Licensee.

(c) Damages. If this License is terminated by Licensor pursuant to this Paragraph 14, Licensee nevertheless shall remain liable for the payment of License Fee under this License for the balance of what would have been the Term of this License if the Term had not been terminated, together with all reasonable costs, fees and expenses including, but not limited to costs and expenses incurred by Licensor in pursuit of its remedies hereunder. Notwithstanding the foregoing, the amount owed by Licensee under this paragraph shall be offset by any amounts Licensor collects as a result of reletting.

15. Utilities and Services.

(a) Licensee shall pay to Licensor, as additional rent, Licensee's Proportionate Share of utilities, including, but not limited to, gas and electricity, which are used or consumed in connection with the Building. "Licensee's Proportionate Share" shall mean a percentage calculated by dividing the number of square feet of space licensed to Licensee exclusively by the total number of square feet of occupied space in the Building. The number of square feet of the Building is currently 5,549 and Licensee's Proportionate Share is 3500, or 63%. Licensor shall provide an invoice for such utilities monthly in arrears.

(b) Licensee shall be responsible for arranging any internet and phone services/system(s) for the Premises and shall be responsible for the associated costs therewith. Licensor intends to install a separate water meter dedicated to the Premises and thereafter, Licensee shall be responsible for payment of its water usage directly to the supplying vendor.

16. Entry and Inspection. Licensor and its agents may enter upon the Premises at any time and for any purpose, including to assess Licensee's compliance with the terms of this License. In the event Licensor or its agents find violations, liquidated damages may be assessed to the Licensee for each violation. If such damages are not paid promptly by Licensee, the amounts of such damages may be deducted from Licensee's Security Deposit (hereinafter defined).

17. Alterations. Licensee shall not make, or suffer to be made, any alterations of the improvements to or of the Premises without the prior written consent of Licensor, which may be withheld, conditioned, or delayed in Licensor's sole discretion, and any additions to or alterations of or to the Premises shall, at the option of Licensor, become at once a part of the Premises and belong to Licensor. If prior written consent of Licensor to any proposed alterations by Licensee has been obtained, Licensee agrees to advise Licensor in writing of the date upon which such alterations will commence in order to permit Licensor to post notice of non-responsibility. Licensee shall be responsible for obtaining any approvals or permits required from any government entity prior to the commencement of any alterations made by Licensee and Licensee shall pay for any construction costs associated with such alterations. Any alterations by Licensee shall comply with all applicable government regulations as well as the Americans with Disabilities Act (the "ADA"). Licensee will indemnify Licensor for all costs and liability for Licensee's failure to comply with the foregoing or by failing to keep its furnishings and trade materials in compliance with such regulations and the ADA. Licensee shall keep the Premises free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by Licensee. Licensor, at its option, upon the termination of this License, may require Licensee to remove, without material damage to the Premises, any and/or all of the alterations and/or improvements made by Licensee in connection with this License.

18. Condemnation and Casualty.

(a) Entire Taking. If the entire Premises are taken or condemned by any competent authority for any public use or purpose, then this License shall terminate on the day prior to the taking of possession by such authority or on the day prior to the vesting of title in such authority, whichever occurs first, and the Fee shall be paid to and adjusted to that day.

(b) Partial Taking. If a portion of the Premises is condemned or taken and, as a result, there is such major change in the character of the Premises as to prevent Licensee from using it in substantially the same manner as before, then Licensee may either terminate this License as of the date when the part of the Premises so taken or condemned as required for such public purpose or Licensee may continue to occupy the remaining portion of the Premises, provided Licensee gives written notice to Licensor within fifteen (15) days after the date of any taking or vesting of title, of its election to continue occupying the remaining portion of the Premises. In the event Licensee remains in possession of the remaining portion of the Premises, all of the terms and conditions of this License shall remain in full force with respect to such remaining portion of the Premises, except that the Fee shall be equitably adjusted by Licensor, in Licensor's sole discretion, according to the amount and value of the remaining portion of the Premises; and provided further that Licensee shall, at Licensee's sole expense, promptly and with all reasonable diligence (subject to extraordinary conditions beyond Licensee's reasonable control) do such work as to make a complete architectural unit of the remaining portion of the Premises and this License shall then continue for the balance of its Term, subject to all of the terms and conditions otherwise stated in this License.

(c) Award. The entire award of damages or compensation for the whole or part of the Premises taken, shall belong to Licensor, and Licensee hereby assigns to Licensor any and all such award. Licensee may interpose or prosecute in any condemnation proceeding a claim for the value of any trade fixtures installed in the Premises by Licensee.

(d) Entire Casualty. If the entire Premises are damaged by casualty, then this License shall terminate on the day prior to the casualty, and the Fee shall be paid to and adjusted to that day.

(e) Partial Casualty. If a portion of the Premises is damaged by casualty and, as a result, there is such major change in the character of the Premises as to prevent Licensee from using it in substantially the same manner as before, then Licensee may either terminate this License as of the date when the part of the Premises is so damaged or Licensee may continue to occupy the remaining portion of the Premises, provided Licensee gives written notice to Licensor within fifteen (15) days after the date of any taking or vesting of title, of its election to continue occupying the remaining portion of the Premises. In the event Licensee remains in possession of the remaining portion of the Premises, all of the terms and conditions of this License shall remain in full force with respect to such remaining portion of the Premises, except that the Fee shall be equitably adjusted by Licensor, in Licensor's sole discretion, according to the amount and value of the remaining portion of the Premises; and provided further that Licensee shall, at Licensee's sole expense, promptly and with all reasonable diligence (subject to extraordinary conditions beyond Licensee's reasonable control) do such work as to make a complete architectural unit of the remaining portion of the Premises and this License shall then continue for the balance of its term, subject to all of the terms and conditions otherwise stated in this License.

(f) Insurance Proceeds. All insurance proceeds for the whole or part of the Premises

damaged by casualty shall belong to Licensor, and Licensee hereby assigns to Licensor any and all of such proceeds.

19. **Abandonment.** Licensee agrees not to vacate and abandon the Premises at any time during the Term. In the event Licensee vacates and abandons the Premises, any personal property of Licensee shall be deemed abandoned and become the property of Licensor and/or Licensor may remove and dispose of any personal property belonging to Licensee which remains on the Premises.

20. **Laws and Regulations.** Licensee, at its own cost and expense, shall comply promptly with all laws, rules, regulations, ordinances, permits, licenses and orders of all federal, state, and municipal governments or agencies, including any and all laws relating to access for persons with disabilities. Licensee shall comply with all New York City, State, and Federal requirements to provide safe and accessible recreational opportunities for all, including those with disabilities. Licensee's operations at the Premises shall comply with all applicable New York State Fire, Nassau County Fire Marshal and City Fire Department regulations, codes and ordinances. Licensee shall provide any supplemental equipment for fire protection such as alarms and extinguishers, if necessary. Furthermore, Licensee shall promptly comply with the requirements of any Board of Fire Underwriters or of Licensor's insurance company concerning the Premises.

21. **Records.** The Licensee shall, at its sole expense, maintain full, complete and accurate books and records, documents, accounts and other evidence of accounts, whether maintained electronically or manually ("Records") pertinent to its use and operation of the Premises. Records shall be maintained in accordance with generally accepted accounting principles and, if the Licensee is a non-profit entity and receives any local, state or federal funds, must comply with the accounting guidelines set forth by the local, state and/or federal agency. The Licensee shall maintain the Records for a period of six (6) years following the later of termination of this License.

Such Records shall at all times be available for audit and inspection by the City Comptroller, the City Manager, any other governmental authority with jurisdiction over the administration of the Premises and the payment therefore, and any of their duly designated representatives. The Licensee shall furnish a copy of its New York State Annual Filing for Charitable Organizations CHAR500 and Internal Revenue Service 990 Return to the City Comptroller within 30 days of filing. Failure to provide the same to the City Comptroller shall be considered a material breach of this License.

The Licensee shall, at its sole expense, obtain the services of a recognized accounting firm to prepare and provide an annual audited financial statement to the City Comptroller's office within 10 days after issuance of such statement. Failure to provide such statement within 120 days of the end of fiscal year may be considered a material breach of this License. The Licensee shall furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Licensor and its agents, for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

22. **Annual Reporting Requirements.** In addition to the requirements set forth in Section 21 above, Licensee shall provide to Licensor the following:

(a) By June 30, 2021, and every year thereafter, Licensee shall submit to Licensor the following reports:

- (1) Goals for the year, including: (i) fundraisers and/or grant applications; (ii) documentation of replacement of Equipment (as necessary); and (iii) curricula/program description(s) for each age group.
- (2) Financial Statements, including (i) proposed operating budget; (ii) fee schedule; (iii) balance sheet; (iv) profit-and-loss statement; and (v) cash statement.

(b) By December 31, 2021 and every year thereafter, Licensee shall submit the following reports:

- (1) Status on goals for the year, including: (i) fundraiser(s) and/or grant applications; (ii) documentation of replacement of Equipment.
- (2) Financial Statements, including (i) actual operating budget; (ii) balance sheet; (iii) profit-and-loss statement; (iv) cash flow statements; (v) itemized budget report for the past reporting period; (vi) receivable and payable aging report; (vii) significant events/accomplishments in the past year.

23. **Surrender of the Premises.** Licensee agrees at the expiration of this License or upon its earlier termination to surrender the Premises in substantially the same state of condition and repair as it exists as of the date of this License, excepting reasonable wear and tear, and damage caused by acts of God.

24. **Assignment and Subletting.** Licensee shall not assign this License or any interest in it, nor sublicense the Premises or any part of it or any right or privilege, nor permit the occupancy or use of any part of it by any other person or entity, without the prior written consent of Licensor, which may be withheld, conditioned, or delayed in Licensor's sole discretion. In the event of any permitted assignment or sublicensing, Licensee shall remain liable to Licensor for performance of all of the terms and conditions of this License. Consent by the Licensor to an assignment or sublicense shall not be a consent to subsequent assignment or sublicense.

25. **Rules and Regulations.** Licensor reserves the right to adopt rules and regulations with respect to the Building and the Premises. Said rules and regulations as may be adopted shall apply to Licensee and Licensee hereby agrees to be bound thereby and to cooperate as to their enforcement by Licensor and to disseminate or communicate them to its employees and invitees. Smoking is not permitted at, near or in the Premises and the Building. Licensee shall take all reasonable steps to enforce the "no smoking" policy.

26. **Business Interruption.** Licensee shall not hold Licensor liable or seek reimbursement, abatement, or remuneration for any interruption in business, utilities, supplies, programming, or other operation resulting from any City, Local, State or Federally declared disaster or emergency. Licensee shall comply with all City, Local, State and Federal laws, regulations, rule, codes, ordinances, and guidelines relating to any City, Local, State or Federally declared disaster or emergency, including, but not limited to, COVID-19.

27. **Subordination.** Licensee agrees that this License shall be subordinate to any liens, mortgages, or trust deeds that may be placed or exist upon the Premises, to any and all advances made or to be made under them, to the interest and all obligations secured by them, and to all renewals,

replacements and extensions of them.

28. **Holdover.** If Licensee continues in possession of the Premises after the expiration of the Term and Licensor has not commenced summary proceedings to evict Licensee from possession, then the Term of this License shall be extended on a month-to-month basis, terminable by either Licensor or Licensee on the last day of a calendar month, upon at least 30 days' prior written notice. Such occupancy shall be upon all the same terms, covenants, and conditions contained in this License, except for the License Fee, which shall equal one hundred twenty five percent (125%) of the Fee effective as of the last month of the Term.

29. **Claims.** No action or special proceeding shall lie or be prosecuted or maintained against Licensor upon any claims arising out of or in connection with this License unless:

(a) At least thirty (30) days prior to seeking relief, Licensee shall have presented the demand or claim(s) upon which such action or special proceeding is based in writing to the City Corporation Counsel for adjustment and the Licensor shall have neglected or refused to make an adjustment or payment on the demand or claim for thirty (30) days after presentment; and

(b) Such action or proceeding is commenced within the earlier of (i) one (1) year of the cause of action, or (ii) the time specified in any other provision of the License.

30. **Notices.** All notices hereunder shall be in writing and shall be delivered in person or sent by registered or certified mail, postage prepaid, or by nationally-recognized overnight courier to the address of the other party as set forth above or to such other address as such party shall have designated. Any notice shall be deemed received upon delivery, if delivered in person, three (3) days after deposit with the United States Postal Service, if sent by registered or certified mail, postage prepaid, and the next day after deposit with the nationally-recognized overnight courier, if sent by nationally-recognized overnight courier.

31. **Independent Contractor.** In performing, directing, or otherwise managing its respective duties and obligations hereunder, Licensee shall be deemed to be acting as an independent contractor and nothing herein shall be considered or deemed to establish or otherwise create a relationship of employer and employee, principal and agent, partnership, agency, or joint venture as between the parties, or between either party and any employee or subcontractor of the other party. Each party shall at all times maintain complete control over its employees and operations, including the activities of its agents and contractors and shall be responsible for all payments to and claims by any of its employees, agents, or contractors related to this Agreement and the Services provided hereunder.

32. **Signs.** Signage shall be permitted with the prior written approval of the Licensor, which may not be unreasonably withheld, conditioned, or delayed, and in conformity with all existing zoning regulations or ordinances. Licensee shall keep all signs in good condition and free of graffiti.

33. **Security Deposit.** Upon execution of this License by both parties, Licensee shall deposit with the Licensor the sum of Five Thousand and 00/100 Dollars (\$5,000.00) as security for the full and faithful performance by the Licensee of all the terms of this License required to be performed by the Licensee (the "Security Deposit"). The unapplied portion of the Security Deposit shall be returned to the Licensee after the expiration of this License. Notwithstanding the foregoing, the Security Deposit may be in the form of a letter of credit or other format approved by Licensor.

34. **Limitations of Licensor's Liability.** The Licensor shall not be liable for any damage or injury to the Premises, or any person therein, or to goods, wares, merchandise or property of the Licensee, or of any other person contained therein, done or occasioned by or from, unless the aforesaid occurs as a result of the negligence of the Licensor.

35. **Invalidity of Particular Provision.** If any term or provision of this License or the application hereto to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this License shall be valid and be enforced to the fullest extent permitted by law.

36. **Waiver of Jury Trial.** Licensor and Licensee hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other on or in respect of any matter whatsoever arising out of or in any way connected with this License, the relationship of Licensor and Licensee under it, Licensee's use or occupancy of the Premises or any claim of injury or damage.

37. **Paragraph Headings.** The paragraph headings in this License are for convenience only and shall not limit or be deemed to construe or interpret the terms and provisions of this License.

38. **Law Governing.** This License shall be construed and interpreted in accordance with the laws of the State of New York.

39. **Successors.** This License shall bind and inure to the benefit and detriment of the parties hereto, their heirs, executors, administrators, lawful successors in interest, and permitted assigns.

40. **Entire Agreement.** This License represents the entire agreement of the parties and may not be altered except by a writing executed by both parties.

41. **No Broker.** No real estate firm or broker contributed to the signing of this License.

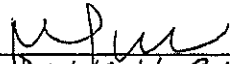
42. **Counterparts.** This License may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

43. **COVID-19.** If the order of any Local, State or Federal governmental authority mandates the total closure of Licensee's daycare facility at the Premises in response to the effects of the COVID-19 pandemic, Licensee may, at its option, defer the payment of the License Fee until such time as the order is lifted. The period from the date of the mandated closure to the date of reopening shall be referred to as the "Closure Period." At the expiration of the Closure Period, the total License Fee due during the Closure Period, but deferred, shall be payable in equal monthly installments for the remainder of the Term in addition to the License Fee and all other charges due under this License, or, at the option of Licensee, payable in one lump sum payment to Licensor within thirty (30) days of the end of the Closure Period. Licensee shall continue to pay all utilities and all other charges under this License during the Closure Period. If, during the Closure Period, Licensee may lawfully keep the daycare facility open in a limited capacity, Licensee may, at its option, defer the payment of a percentage of License Fee, such percentage to be determined by the parties and proportionate to the Licensee's business operations that continue during the Closure Period.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have set their signatures to this License as of the date first set forth above.

CITY OF LONG BEACH

By: 
Name: DONNA H. GAYDEN
Title: CITY MANAGER

BARRY & FLORENCE FRIEDBERG
JEWISH COMMUNITY CENTER, INC.

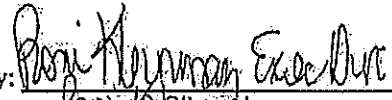
By: 
Name: Roni Heiman
Title: EXEC DIR

EXHIBIT A
RFP and RFP Response

EXHIBIT B

The Equipment

The following Resolution was moved by Ms. Treston
and seconded by Pres. Bendo :

Resolution Authorizing the City Manager to Enter into a License
and Operating Agreement for the Management of a Day Care Center
with the Sole Responsible Proposer.

WHEREAS, after due advertising therefore, one proposal was received in the
Office of the City Purchasing Agent on Monday, August 31, 2020 at 2:00 a.m. for the operation
and management of a Day Care Center located at 650 Magnolia Boulevard, Long Beach, New
York for a period of five (5) years, with the option for one additional two-year term extension, at
the City's sole discretion; and

WHEREAS, the Barry and Florence Friedberg Jewish Community Center, Inc.,
15 Neil Court, Oceanside, New York 11572 was the sole responsible proposer and has been
serving Long Island's south shore community for over fifty years, effectively and successfully
providing this specific service; and

WHEREAS, it is the sole responsibility of the proposer to obtain prior to
operating, and throughout the entire term of this agreement, a valid childcare license issued by
New York State to operate the day care facility; accreditation by the Office of Children and
Family Services (or an accreditation that is of equal caliber to the Office of Children and Family
Services) and the appropriate and required insurance coverages; and

WHEREAS, the proposer shall pay a monthly license fee to the City of Long
Beach commencing January 1, 2021, due each month thereafter on the first day of the month, at
the following rates:

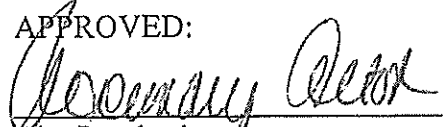
January 1, 2021 – December 31, 2021	\$2,750.00 per month
January 1, 2022 – December 31, 2022	\$3,000.00 per month
January 1, 2023 – December 31, 2023	\$4,000.00 per month
January 1, 2024 – December 31, 2024	\$4,400.00 per month
January 1, 2025 – December 31, 2025	\$4,840.00 per month
Extension Period:	
January 1, 2026 – December 31, 2026	\$5,324.00 per month
January 1, 2027 – December 31, 2027	\$5,856.00 per month

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the
City Manager be and she hereby is authorized to enter into an agreement with the Barry and
Florence Friedberg Jewish Community Center, Inc., 15 Neil Court, Oceanside, New York 11572
for the operation and management of a Day Care Center located at 650 Magnolia Boulevard,
commencing November 18, 2020 to prepare the premises for the operation of the day care
facility, and expiring on December 31, 2025, with the option for one additional two-year term
extension at the City's sole discretion, at the monthly licensing fees as provided above; and be it
further


RESOLVED, that said agreement shall contain such other terms, conditions and provisions as the City Manager shall deem necessary and proper.

APPROVED:



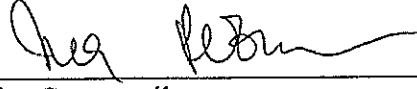
City Purchasing Agent

APPROVED AS TO ADMINISTRATION:



City Manager

APPROVED AS TO FUNDS:



City Comptroller

APPROVED AS TO FORM & LEGALITY:



Deputy Corporation Counsel

VOTING:

Council Member Delury - AYE

Council Member Mandel - AYE

Council Member Treston - AYE

Vice President McInnis - ABSENT

President Bendo - AYE