

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
First Assistant
City Solicitor



Arthur J. Goldberg
Supervising Legal Counsel

Legal Counsel
Birge Albright
Vali Buland
Cheryl Anne Watson
Nancy B. Schlacter
Christine E. McGinn

CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

#45
CM- 3/20/00 - Order # 10

To: Richard Rossi, Deputy City Manager
From: Arthur Goldberg *AG*
Date: July 31, 2001
Re: Agreement with North Charles Community Eruv, Inc.

The overarching agreement between the City and the North Charles Community Eruv, Inc. ("NCCE") has been fully executed. See attached copy. One executed original was sent to NCCE. I am sending the second original to the City Clerk. With a copy of this memo, I am sending copies of the agreement to City officials with oversight responsibility under the agreement, that is, the City Electrician, the Commissioner of Public Works, and the Tree Warden.

I believe the ball is once again in NCCE's court to submit final plans for approval to City officials and to provide the required insurance to the DPW.

cc. Lisa Peterson, Commissioner, DPW (w/copy)
George Fernandes, City Electrician (w/copy)
Larry Acosta, Tree Warden (w/copy)
D. Margaret Drury, City Clerk (w/original)

2001 AUG -1 A 10:40
CITY CLERK
CITY OF CAMBRIDGE, MASSACHUSETTS

AGREEMENT
BETWEEN
THE CITY OF CAMBRIDGE
AND
NORTH CHARLES COMMUNITY ERUV, INC.

This Agreement is made this 21st day of July, 2001, by and between the City of Cambridge, Massachusetts, with offices at City Hall, 795 Massachusetts Avenue, Cambridge, MA 02139 (hereafter "the City") and North Charles Community Eruv, Inc., a not-for-profit corporation organized under the laws of the Commonwealth of Massachusetts located at 34 High Street, Cambridge, MA 02138 (hereafter "NCCE").

WHEREAS, NCCE seeks to create a ritual neighborhood enclosure (called an "Eruv") in furtherance of Jewish tradition and in accordance with Jewish law regarding the Sabbath and Yom Kippur, and for the stability, cohesiveness and general welfare of the Jewish community in Cambridge; and

WHEREAS, on March 20, 2000, the Cambridge City Council voted unanimously to authorize the City Manager to enter into and complete negotiations with NCCE for a nominal lease agreement that will allow for the establishment of the Eruv District; and

WHEREAS, in furtherance of such purposes, NCCE proposes to attach necessary appurtenances and lines, which cannot conduct electricity, to certain designated poles, and to erect other poles and attach said nonconductive appurtenances and lines, which appurtenances, lines and poles will be located over and on public sidewalks and streets of the City; and

WHEREAS, NCCE desires to install and maintain poles in certain locations on or adjacent to certain streets and sidewalks of the City of which only a few may be all or partially on City property, and to attach nonconductive lines in certain locations across streets and sidewalks of the City between poles and structures, and to attach as nonconductive appurtenances which are one-half (1/2) inch plastic "U-guards" to certain existing poles and structures, with the numbers and locations of such poles and lines shown on the proposed Updated Permit Set, dated March 1, 2001, schedules of elements and other materials submitted by NCCE, on file with the City, as same may be amended from time to time with the City's approval (collectively referred to hereinafter as the "Plans").

NOW THEREFOR, the parties, in consideration of their mutual promises expressed below, and for other good and valuable consideration, agree as follows:

- 1. Lease.** The City hereby leases to NCCE as tenant for a period of 99 years, and in consideration of \$1.00 (one dollar), the rights to the domain bounded by the City limits for the purposes of constructing and maintaining an Eruv, in accordance with the vote attached as **Exhibit A** hereto.
- 2. Design and Construction.** NCCE is hereby authorized, at its own expense, to construct or cause the construction of poles, nonconductive lines and nonconductive appurtenances in the public portions of the streets and sidewalks in accordance with the Plans. The design and specification of each location shall be subject to the review and approval of the City of Cambridge Electrician, the City's Commissioner of Public Works, and the City's Tree Warden, and shall be subject to such reasonable conditions as each may see fit to impose. NCCE shall be responsible for obtaining any other authorizations required to construct and maintain any poles, lines and appurtenances in any City public way, and for preparing and filing all required plans and specifications therefor at its own cost. Rights granted hereby shall be non-exclusive.

3. Maintenance. NCCE shall at all times and at its own expense maintain the improvements in good and safe condition, and so as not to constitute a hazard or danger to persons or property making use of a public way. Subject to the review and approval of the City of Cambridge Electrician and the Commissioner of Public Works, NCCE shall establish policies and procedures to:

- a. maintain the poles, lines and appurtenances;
- b. promptly and immediately repair and replace them, as needed; and,
- c. provide the public with means to promptly notify NCCE of the need for such repair or replacement.

4. Indemnification. NCCE agrees to pay, indemnify, and save harmless the City from all suits, actions, claims, demands, damages or losses, expenses and costs of every kind and description to which the City may be subjected or put by reason of injury (including death) to persons or property resulting from, in connection with, or growing out of any act of commission or omission of NCCE, its agents or employees, its contractors, or its subcontractors in the construction or maintenance of the poles, lines and appurtenances. The City shall give notice of any suits, actions, claims, demands, damages or losses, expenses or costs to NCCE forthwith, provided that failure to give such notice shall not in and of itself create any additional rights for NCCE with respect to the City. The City shall be reasonable and shall not object as a matter of course to the intervention of NCCE in any suits or actions arising out of such claims, demands, damages or losses, expenses or costs. NCCE shall be held harmless for all claims and damages which may arise out of or be caused solely by any act of commission or omission of the City. In addition, the City acknowledges that as shown on the Plans, most poles and lines or wires used by NCCE are owned, repaired and maintained by other third parties which have the primary licenses, easements and permissions from the City for such poles and lines or wires, and therefore, such third parties are primarily responsible for liabilities in connection therewith.

5. Insurance. NCCE shall pay for insurance issued by an insurance carrier satisfactory to the City to protect the parties hereto from and against any and all claims, demands, actions,

judgments, costs, expenses and liabilities of every kind and nature which may arise or result directly or indirectly from or by reason of such loss, injury or damage referred to in paragraph 4 above. Insurance coverage against property damage shall be \$1,000,000.00 (one million dollars) for any one occurrence and \$3,000,000.00 (three million dollars) in the aggregate. Coverage against personal injury or death shall be \$1,000,000.00 (one million dollars) for any one person, \$1,000,000.00 (one million dollars) for any one occurrence, and \$3,000,000.00 (three million dollars) in the aggregate. This insurance shall be effective before NCCE commences constructing any pole, line or appurtenance, and shall remain in effect until all such poles, lines or appurtenances are removed. The City shall be named as an additional insured. NCCE shall annually submit to the Department of Public Works certificates indicating that the required insurance is in effect.

6. Assignment. NCCE shall not assign or transfer this Agreement or any authorization granted hereunder, and this Agreement shall not inure to the benefit of NCCE's successors, without the prior written consent of the City, which consent, in the case of assignments or transfers to NCCE's nominees, affiliates or successors who agree to assume NCCE's obligations hereunder) shall not be unreasonably withheld.

7. Amendment; Termination. If either party desires to change the locations of some or all of the poles, lines or appurtenances, the parties shall agree as to amendments to the Plans. The provisions of Paragraph 2 above shall apply to all such changes. NCCE shall reconfigure the Eruv structure and restore any portions of sidewalk or other property altered from its original condition thereby. If either party desires to terminate its obligations under this Agreement, NCCE shall remove such poles, lines and appurtenances in a good and workmanlike manner and restore any portions of sidewalk or other property altered from its original condition thereby. Either party may terminate this Agreement upon 60 days prior written notice to the other. The City reserves the right to order the immediate removal, and to itself immediately remove when necessary, any pole, line or appurtenance authorized hereunder, in the case of emergency.

8. Force Majeure. If either of the parties hereto is delayed or prevented from fulfilling any obligations under this Agreement by any cause beyond the reasonable control of such party, including but not limited to, act of God, act of omission of civil or military authorities or a nation or state, fire, strike, flood, riot, war, delay of transportation, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities, then said party shall not be liable under this Agreement for said delay or failure.

9. Entire Agreement/Amendments. This Agreement constitutes the full understanding between the parties and supersedes any and all prior oral and written understandings or agreements. No terms, conditions, understandings or agreements purporting to modify or verify this Agreement shall be binding unless hereafter made in writing and signed by both parties.

10. No Waiver. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be a waiver of any subsequent breach thereof.

11. Severability. This Agreement is severable; and in the event that any one or more of the provisions hereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

12. Captions. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

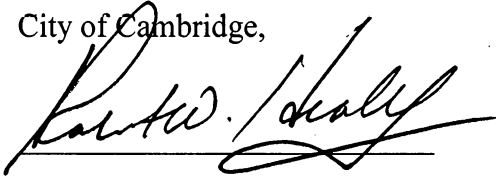
13. Governing Law. This Agreement shall be construed and governed according to the laws of the Commonwealth of Massachusetts.

14. Counterparts. This Agreement may be executed in more than one counterpart, and each executed counterpart shall be considered as the original.

15. **Additional Documents.** The parties will execute and deliver, or cause others to do so, all such powers of attorney, documents and instruments to do, or cause to be done, all such others acts and things as may be necessary to carry out the provisions of this Agreement. Each party will take all steps to timely fulfill the conditions to their obligations hereunder.

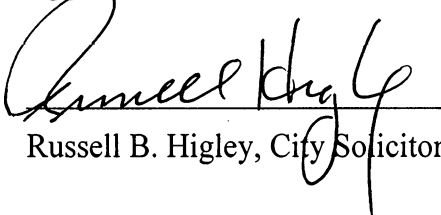
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

City of Cambridge,



Robert W. Healy, City Manager

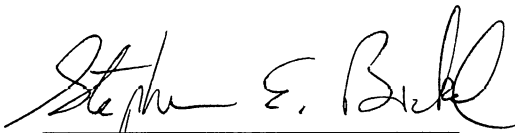
Approved as to Form:



Russell B. Higley, City Solicitor

North Charles Community Eruv, Inc.*

By:



Print Name: Stephen E. Bickel, President



Raphael A. Schorn, Vice President

*authorizing corporate vote attached as Exhibit B hereto.

Exhibit A

City Vote

See attached.



City of Cambridge

O-10.

IN CITY COUNCIL

March 20, 2000

MAYOR GALLUCCIO
 COUNCILLOR BRAUDE
 COUNCILLOR DAVIS
 COUNCILLOR BORN
 COUNCILLOR SULLIVAN
 COUNCILLOR DECKER
 VICE MAYOR MAHER
 COUNCILLOR REEVES
 COUNCILLOR TOOMEY

- WHEREAS: The traditional Jewish community represents a significant, proud, and cohesive portion of the City of Cambridge; and
- WHEREAS: In the furtherance of Jewish tradition, in order to enable increased observance of the Sabbath, in particular for mothers with small children, the elderly, and the physically disabled, the said community has undertaken the establishment of a ritual neighborhood enclosure (called an Eruv); and
- WHEREAS: Such Eruv is intended to be created without contravening any federal, state, or local law and without violating any existing property rights; and
- WHEREAS: The establishment of such an Eruv will help to further the stability, cohesiveness, and general welfare of the Cambridge area Jewish community; and
- WHEREAS: The government of the City of Cambridge does encourage and support the efforts to enrich and improve our community for the welfare of our citizenry; now therefore be it
- ORDERED: That the City Manager be and hereby is requested to enter into and complete negotiations for a nominal lease agreement that will allow for the establishment of the Eruv District for the purposes stated above.

In City Council March 20, 2000.

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury

D. Margaret Drury
 City Clerk

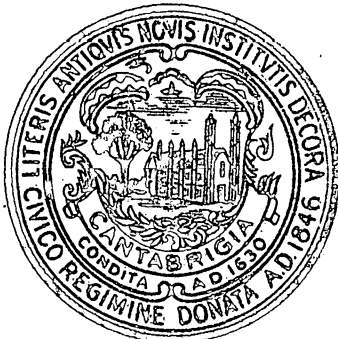


Exhibit B

North Charles Community Eruv, Inc. Vote

See attached.

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VOTE OF THE BOARD OF DIRECTORS

OF

NORTH CHARLES COMMUNITY ERUV, INC.

WHEREAS, a special meeting of the Board of Directors of North Charles Community Eruv, Inc., a Massachusetts non-profit corporation (the "Corporation") was held this 13th day of July, 2001, at which a quorum of the members of the Board of Directors was present and acting throughout; and

WHEREAS, the Corporation was organized for the purpose of establishing and maintaining an eruv for the Greater Cambridge and Somerville Community.

NOW, THEREFORE, the Board of Directors of the Corporation adopted the following votes by a majority vote of the Directors present and voting at the meeting:

VOTED: That Stephen Bickel, as the President of the Corporation, Raphael Schorr, as Vice President of the Corporation, and Michael Rosen, as Treasurer of the Corporation, are hereby severally authorized in the name and on behalf of the Corporation to execute, acknowledge and deliver all documents and instruments and to take such other actions as are deemed necessary, desirable or appropriate to obtain licenses, permits, and leases of carrying rights on Sabbath and Yom Kippur necessary for construction and maintenance of an eruv.

No new business coming before the meeting, it was, on motion duly made and seconded, adjourned.

A TRUE RECORD.

Attest: 

Raphael Schorr, Clerk

I hereby certify that the above is a true copy of a vote taken at a duly called meeting of the Board of Directors of North Charles Community Eruv, Inc. on July 13, 2001, at which a quorum was present and voting throughout, and which was voted by a majority of the Board of Directors present and voting at the meeting.

A handwritten signature in cursive script, reading "Raphael Achoron", written over a horizontal line.

Clerk of the Board



City of Cambridge

O-10.

IN CITY COUNCIL

March 20, 2000

MAYOR GALLUCCIO
 COUNCILLOR BRAUDE
 COUNCILLOR DAVIS
 COUNCILLOR BORN
 COUNCILLOR SULLIVAN
 COUNCILLOR DECKER
 VICE MAYOR MAHER
 COUNCILLOR REEVES
 COUNCILLOR TOOMEY

WHEREAS: The traditional Jewish community represents a significant, proud, and cohesive portion of the City of Cambridge; and

WHEREAS: In the furtherance of Jewish tradition, in order to enable increased observance of the Sabbath, in particular for mothers with small children, the elderly, and the physically disabled, the said community has undertaken the establishment of a ritual neighborhood enclosure (called an Eruv); and

WHEREAS: Such Eruv is intended to be created without contravening any federal, state, or local law and without violating any existing property rights; and

WHEREAS: The establishment of such an Eruv will help to further the stability, cohesiveness, and general welfare of the Cambridge area Jewish community; and

WHEREAS: The government of the City of Cambridge does encourage and support the efforts to enrich and improve our community for the welfare of our citizenry; now therefore be it

ORDERED: That the City Manager be and hereby is requested to enter into and complete negotiations for a nominal lease agreement that will allow for the establishment of the Eruv District for the purposes stated above.

In City Council March 20, 2000.
 Adopted by the affirmative vote of nine members.
 Attest:- D. Margaret Drury, City Clerk.

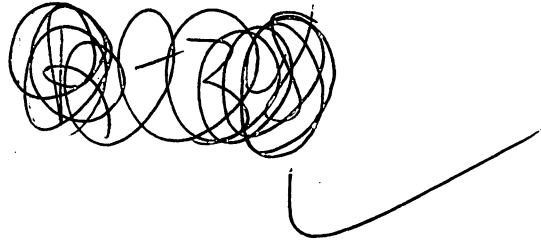
A true copy;

ATTEST:-

D. Margaret Drury
 City Clerk

MAYOR GALLUCCIO
COUNCILLOR BRAUDE
COUNCILLOR DAVIS
COUNCILLOR SULLIVAN
COUNCILLOR BORN
COUNCILLOR DECKER

0-10

Handwritten scribbles consisting of several overlapping circles and lines, followed by a large checkmark.

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ORDERED: That the City Manager enter into and complete negotiations for a nominal lease agreement that will allow for the establishment of the Eruv District for the purposes stated above.

2008 MAR 19 2:40
CITY CLERK
CITY OF CAMBRIDGE, MASSACHUSETTS



City of Cambridge

O-10.

IN CITY COUNCIL

March 20, 2000

MAYOR GALLUCCIO
COUNCILLOR BRAUDE
COUNCILLOR DAVIS
COUNCILLOR BORN
COUNCILLOR SULLIVAN
COUNCILLOR DECKER

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45 CM

Order #10

Enter into and complete negotiations for a nominal lease agreement that will allow for the establishment of the Eruv District.
Mayor Galluccio, Councillors Braude, Davis, Born, Sullivan and Decker

In City Council March 20, 2000

ORDER ADOPTED