

ORDINANCE NO. 2022-03

AN ORDINANCE OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH THE ATLANTIC CITY ELECTRIC COMPANY FOR FACILITATING ELECTRICAL TRANSMISSION SERVICES IN ACCORDANCE WITH N.J.S.A. 40A:12-15.

WHEREAS, property known as 1363 Route 539, also known as Block 124, Lots 10.01 and 67 on the Tax Map of the Township of Little Egg Harbor (hereinafter the “Property”), is owned by the Township of Little Egg Harbor; and

WHEREAS, the Township of Little Egg Harbor desires to lease a portion of the Property to Atlantic City Electric Company as delineated on Schedule A, hereto attached; and

WHEREAS, N.J.S.A. 40A:12-15(k) authorizes a municipality to enter into a lease for a municipal public purpose, whereby said public purpose includes the provision of electrical transmission service across the lines of a public utility for a municipality; and

WHEREAS, the Atlantic City Electrical Company desires to use the Property for public purposes associated with electrical transmission and for storage of electrical equipment and materials in facilitation of electrical transmission for all those persons in the Township and in Ocean County; and

WHEREAS, consistent with the authorization under N.J.S.A. 40A:12-15, the term of the lease shall be for nine (9) months, commencing May 1, 2022 and ending January 31, 2023, with options to continue on a month-to-month basis unless cancelled by either party; and

WHEREAS, under the terms of the lease, the Atlantic City Electrical Company shall be required to pay the Township \$1,500 per month for the term of the lease; and

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Rothstein, Mandell, Strohm
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

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WHEREAS, the Township Administrator shall be responsible for the enforcement of the terms and conditions set forth in the Lease Agreement between the Township and the Atlantic City Electric Company.; and

WHEREAS, the governing body wishes to authorize the Lease Agreement with the Atlantic City Electric Company. in accordance with the provisions of State Law.

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

SECTION 1. That the governing body of the Township of Little Egg Harbor does hereby authorize the Mayor and Municipal Clerk to execute a Lease Agreement, in a form acceptable to the Township Attorney, between the Township of Little Egg Harbor and the Atlantic City Electric Company for a portion of the Property located at Block 124, Lots 10.01 and 67, more commonly known as 1363 Route 539 in the Township of Little Egg Harbor, as delineated pursuant to Schedule A, hereto attached, for the term of nine (9) months commencing May 1, 2022 and ending January 31, 2023.

SECTION 2. This lease is authorized pursuant to the provisions of N.J.S.A. 40A:12-15(k).

SECTION 3. Atlantic City Electric Company shall be required to pay the sum of \$1,500 per month for every month of the term of the Agreement with the Township of Little Egg Harbor Township.

SECTION 4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent

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jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 6. This ordinance shall take effect after second reading and publication as required by law.

SECTION 7. That a certified copy of this lease be kept on file and made available for inspection during normal business hours in the Municipal Clerk's office.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Little Egg Harbor held on the **14th** day of **April, 2022**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **12th** day of **May, 2022**, at 4:30 p.m. at the Municipal Building located at 665 Radio Road, Little Egg Harbor, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

KELLY LETTERA, RMC
Township Clerk
Township of Little Egg Harbor

rmshc

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LEASE AGREEMENT

THIS LEASE AGREEMENT made this _____ day of _____ 2022, by and between THE TOWNSHIP OF LITTLE EGG HARBOR hereinafter referred to as "LESSORS", party of the first part, and ATLANTIC CITY ELECTRIC COMPANY, a corporation of the State of New Jersey, party of the second part, hereinafter referred to as "ACE".

WITNESSETH:

THAT LESSORS, for and in consideration of the rent agreed to be paid by ACE, as specified herein, and the terms and conditions of ACE hereinafter contained, does hereby demise and lease unto ACE a parcel of land hereinafter described, as 1363 Route 539, Little Egg Harbor Township, NJ 08087 and as shown on Municipal Tax Map of the Township of Little Egg Harbor, Ocean County, New Jersey as Block 124, Lots 10.01 and 67 and more particularly shown and designated on Exhibit "A" attached.

THIS agreement is subject to the following terms and conditions.

1. The term of this lease shall be for nine (9) months which commences on May 1, 2022, and ends January 31, 2023, and may be extended on a month-to-month basis unless cancelled by either party.
2. The monthly rental payment for the premises herein leased shall be the sum of One Thousand Five Hundred dollars (\$1,500.00), payable to LESSOR monthly. Said rental payment shall be due and payable on the commencement date of this lease and the first day of the month thereafter for the term of the Lease.
3. In the event ACE shall default in the payment of rent or in any other terms and conditions or agreement contained herein, LESSORS may at their option, terminate this lease forthwith by notifying ACE in writing of such default. ACE shall have thirty (30) days to cure said default and in the event said default is not cured to LESSOR'S reasonable satisfaction and reasonable discretion, this lease shall terminate immediately. Upon termination of this lease for any reason, ACE shall have sixty (60) days to deliver up to LESSORS, the possession of the leased premises. Rent will continue to be due as described in paragraph 2.
4. ACE will not, during the term hereof, sublet any part of the demised premises, and will use said premises only for the purpose of ACE'S business. ACE will not deny LESSORS access to personal property of LESSOR or LESSOR's agents, officers, representatives, or employees which are located on the premises.
5. It is mutually understood and agreed that ACE intends to store electrical equipment and materials and this lease is contingent upon the securing by ACE of all necessary clearances, permits or other approval under any applicable ordinance, regulation, restriction, or order of any Federal, State, County or Municipal government, or of any public authority, including, but not limited to, all necessary zoning permits.

6. ACE, its agents, employees, surveyors, or representatives shall have the right, privilege and license to enter upon said premises at any time during the term of its agreement for making surveys and inspections and to install or remove its facilities.
7. To the fullest extent permitted by law, ACE, its agents, employees, licensees and invitees shall indemnify and hold harmless the LESSOR and the LESSOR's agents, representatives, and employees from and against any and all claims, damages, losses, costs, and expenses, including, but not limited to attorneys' fees, legal costs and legal expenses arising out of or resulting from ACE's use of the leased premises, provided that such claim, damage, loss, cost, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property caused by the negligent acts, negligent omissions, and/or fault of ACE, its agents, employees, licensees and invitees, except for a claim or demand arising by reason of the negligence of LESSORS, its successors, personal representatives, heirs, assigns, licensees and invitees.
8. ACE hereby agrees to hold LESSORS harmless from any and all laws, rules, regulations and controls pertaining to air or soil environmental pollution or sediment control that are now validly existing or that may be passed, enacted or adopted by any Federal, State, County or local government authority having jurisdiction over said property, as a result of any business operation or other operations as may be performed by ACE, its agents or assigns in conjunction with any operations which occurred during the term of this lease.
9. ACE is specifically prohibited from storing hazardous materials of any nature, including transformers containing PCB's, on the property.
10. ACE agrees to return the property to an equal or better condition than as of the commencement date of this lease. Any vegetated areas that are disturbed will be graded to drain, seeded and mulched. Any stone or gravel areas that are disturbed will be graded to drain and rolled. All ACE material/vehicles, equipment and construction trailers will be removed, and the site will be returned to the state as when rented. ACE and the LESSOR will inspect the property at the end of the term of this lease and if the LESSOR finds the premises acceptable, the LESSOR agrees to sign a release stating the property is clear and acceptable, thus releasing ACE from all future claims relating to alleged damages to the property which are reasonably discoverable or identifiable by LESSOR, without any invasive testing, at the time of the aforementioned inspection of the property.
11. ACE agrees to remove all its facilities within a period of sixty (60) days after notice of termination has been given and further agrees to removal of all debris from the area as herein described and to leave the area in a condition that is acceptable to LESSOR as described in paragraph 13.
12. All notices to be given by either party to the other hereunder shall be in writing and shall be delivered in person or given by United States registered or certified mail, postage

prepaid, return receipt requested, addressed as follows or to such other address as the party in question may specify in a written notice to the party giving notice:

TO LESSOR: Township of Little Egg Harbor
665 Radio Road
Little Egg Harbor Township, NJ 08087

TO ACE: Manager of Real Estate
Atlantic City Electric Company
5100 Harding Highway
Mays Landing, NJ 08330

All notices shall be deemed given on the date received in person or via mail. Notices by the parties may be given on their behalf by their respective attorneys.

13. This is the entire agreement between the parties and there are no other terms, obligations, covenants, representations, statements, or conditions, oral or otherwise, of any kind whatsoever.
14. ANY agreement hereafter made shall be ineffective to change, modify, discharge, or affect an abandonment of this agreement in whole or in part unless such agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought.
15. THIS agreement shall be binding upon the parties hereto, their respective heirs, personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first set forth above.

WITNESS

TOWNSHIP OF LITTLE EGG HARBOR

BY

(SEAL)

WITNESS

ATLANTIC CITY ELECTRIC COMPANY

BY

(SEAL)
