

ORDINANCE 11-2021

AN ORDINANCE OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE BOROUGH OF MOUNT ARLINGTON TO ENTER INTO AN EASEMENT AGREEMENT WITH JERSEY CENTRAL POWER AND LIGHT AND VERIZON OF NEW JERSEY, INC.

SUMMARY

An ordinance authorizing the Borough of Mount Arlington to enter into an Easement Agreement with Jersey Central Power & Light ("JCPL") and Verizon of New Jersey, Inc. ("Verizon" and, together with JCPL, sometimes the "Grantees"), with respect to Block 8, Lot 17.01 within the Borough.

WHEREAS, the Borough of Mount Arlington ("Borough") owns certain real property located in the Borough, and identified as Block 8, Lot 17.01 on the tax maps of the Borough (the "Subject Parcel"); and

WHEREAS, the Grantees are installing utility infrastructure that, *inter alia*, will traverse underneath, upon, over and above the Subject Parcel; and

WHEREAS, in connection therewith, the Borough agrees to give, grant, and convey a utility easement underneath, upon, over and above the Subject Parcel (the "Easement Area"), to the Grantees, all as more fully described in the attached Easement Agreement which is appended hereto as Exhibit A, and hereby made a part hereof; and

WHEREAS, pursuant to *N.J.S.A. 40A:12-1 et seq.*, the Local Lands and Buildings Law, and *N.J.S.A. 40A:12A-1 et seq.*, the Local Redevelopment and Housing Law, the Borough has the power to make conveyances of interests in real property, such as the Easement Area upon the Subject Parcel, both in the general sense and in conveyance with redevelopment projects; and

WHEREAS, the Borough wishes to convey the utility easement to Grantees in furtherance of the construction by HESP Solar LLC ("Redeveloper") of a grid-connected photovoltaic solar power system on Block 8, Lot 3 on the tax maps of the Borough pursuant to a Redevelopment Agreement dated as of May 17, 2019, as amended and supplemented, by and between the Borough and the Redeveloper; and

WHEREAS, to effectuate all of the foregoing, the Borough is desirous of adopting this Ordinance under the terms and conditions herein set forth.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Mount Arlington, County of Morris and State of New Jersey, that:

Section 1. The forgoing Recitals be and hereby are, incorporated herein by reference as if set forth at length.

Section 2. The Borough hereby is authorized and directed to effectuate the conveyance from it to the Grantees of the Easement Area upon the Subject Parcel, all for utility purposes as above described.

Section 3. The Mayor and the Clerk of the Borough are each hereby authorized and directed to execute such documents as may be reasonably required to effectuate the making of this conveyance, including, without limit, the proper execution and recordation of the Easement Agreement which is appended hereto as Exhibit A, and hereby made a part hereof. Insofar as the Easement Agreement, due to time, need or emergent circumstance, needs to be executed before the effective date of this Ordinance, the Borough hereby affirms and ratifies such execution in full as if the same had occurred following the effective date hereof.

Section 4. This Ordinance shall take effect following adoption and approval in the time and manner prescribed by applicable law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, which was introduced on July 6, 2021 and will be further considered after a public hearing held on August 3, 2021 at the Municipal Building at 7:00 p.m.


INTRODUCED: July 6, 2021
ADOPTED: August 3, 2021

ATTEST:

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY



Matthew N. Bansch, Borough Clerk
Borough of Mount Arlington



Michael Stanzilis, Mayor
Borough of Mount Arlington

[SEAL]

EXHIBIT A
EASEMENT AGREEMENT



EASEMENT

The undersigned, Mt. Arlington Borough whose address is 419 Howard Blvd Mt. Arlington NJ 07856 (the "Grantor"), is the owner of certain lands located in the Borough of Mount Arlington, County of Morris State of NJ, known and designated as Tax Block 8 , Lot 17.01 , and recorded in The Office of The Clerk of Morris County, on 2/16/2012, in Deed Book 21974 , page 309, referred to as the property.

Grantor, hereby grants and conveys to Grantee Jersey Central Power & Light Company and Verizon of New Jersey Inc., both New Jersey Corporations, (the "Grantee") for valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound, a permanent easement and uninterrupted right, from time to time, to construct, reconstruct, operate, inspect, renew, replace, improve, maintain, redesign, alter, relocate, extend and remove overhead, underground and ground level facilities described below (the "Facilities") as may be deemed necessary or convenient by Grantee for electric, CATV and communication purposes for the use and benefit of the Land and/or adjacent lands on, over, under and across along and beyond the property, the course of said facilities to run as follows:

The NEW THREE PHASE PRIMARY AND NEUTRAL LINE will travel generally in a Northeasterly direction from Existing Pole NJ86MB located along the Northerly Side line of Berkshire Ave thence entering lands of grantor traveling a distance of 70' ± to NEW JCPL POLE 201109A76393 thence traveling overhead generally in a Northeasterly direction 150'± to NEW JCPL POLE 201103 A76406 thence traveling overhead generally in a Northeasterly direction 150'± to NEW JCPL POLE 201116 A76409 thence traveling overhead generally in a Northeasterly direction 150'± to NEW JCPL POLE 201130 A76413 thence traveling overhead generally in a Northeasterly direction 80'± to NEW JCPL POLE 201136 A76415 thence traveling overhead generally in a Northeasterly direction 50'± to NEW CUSTOMER POLE together with the necessary anchors & guys for the support of said pole line.

The Facilities may include, without limitation, poles (with or without crossarms), guy wires, guy stubs, anchors, street lights and standards, transformers, transformer pads, switching compartments, conduits, conductors, ducts, wires, cables, fibers, pedestals, terminal boxes, manholes, hand-holes and other related equipment and apparatus from time to time deemed necessary or convenient by Grantee to accomplish the above purpose.

Grantor gives full authority and unqualified right to the Grantee to trim, remove, clear, keep clear, and otherwise control (by such methods as Grantee, in its sole judgment, may deem necessary or proper, including but not limited to the use of herbicides) any and all trees, underbrush, or other vegetation located within the right of way. Grantee shall also have the full authority and right, in its sole discretion, to trim, remove, clear, keep clear, and otherwise control any or all trees or vegetation adjacent to said right of way, that, in the opinion of Grantee, may interfere or threaten to interfere with the construction, operation, maintenance, or repair of Grantee's Facilities or ingress or egress to, from, or along said right of way.

Grantor covenants not to construct, place, maintain or use structures of any kind, or plant shrubs or trees within eight feet of either side of the center line of the underground Facilities, if any, as installed, raise or lower the ground elevation of the land above or beneath the Facilities; grow beneath overhead Facilities any vegetation or trees, except farm crops or other compatible species identified by Grantee; or obstruct access to, remove structural support from, divert or impound water to or on, or otherwise interfere with, the Facilities.

The rights and obligations hereunder shall be binding upon and inure to the benefit of the Grantor and Grantee and their heirs, executors, administrators, successors and assigns, Licensees and Lessees, as the case may be.

Mt. Arlington Borough

Mayor, Michael Stanzilis

Corporation

STATE OF New Jersey
COUNTY OF Morris

I certify that on July 6, 2021, Michael Stanzilis as Mayor of Mt. Arlington Borough personally appeared before me and acknowledged to my satisfaction that this person (or if more than one, each person) has the Legal Authority for the organization named within this instrument and being so authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the easement.

M. N. Bansch

Notary Public of New Jersey

My commission expires: 7/24/2024

Dated: July 6, 2021



County: Morris

Order #: 106284159/16867655

W/R#: 61172689

**RECORD AND RETURN TO:
JERSEY CENTRAL POWER AND LIGHT COMPANY
RIGHT OF WAY DEPARTMENT
P.O. Box 1911
MORRISTOWN, N.J. 07962-1911**