

A-1886
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USE AND OCCUPANCY AGREEMENT

This Use and Occupancy Agreement ("Agreement") is made as of the 22 day of June, 2026 by and between the **CITY OF ATLANTIC CITY**, whose address is 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401 (hereinafter referred to as "City") and **PMC MECHANICAL LLC**, (hereinafter referred to as "PMC") whose address is 1591 Rt. 37 W. Unit F3, Toms River, NJ 08775. PMC and the City may be referred to hereinafter singularly as "PMC" and "City" and collectively as the "Parties".

Recitals

A. PMC's Project consists of the replacement of a rooftop HVAC System utilizing a 300-foot crane at the Enclave Condominium, which is located across the street from a proposed staging and storage area owned by the City, (the "Project"); and

C. The City is the owner of property known as 3827 and 3825 Boardwalk as shown on the Tax Map of the City as Block 19, Lot 1 and 2 (the "Property" attached as Exhibit A) and recognizes that the Project requires a place for staging and storage; and

D. PMC is desirous of using and occupying the Property for the purpose of staging and storage for the Project; and

E. The Parties intend by this Agreement to set forth the terms and conditions under which PMC may use and occupy the Property for storage and staging in exchange for a fee of FIVE HUNDRED DOLLARS (\$500.00), for a period of one (1) day on July 23, 2026; and

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and promises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. PMC will be permitted to use and occupy approximately 11,700 square feet of unused space located at Block 19, Lots 1 and 2 subject to the terms and conditions of this Agreement. No other person or entity shall be permitted to use or occupy the space provided to PMC.
2. No legal title or leasehold interest in the Property shall be deemed or construed, created or vested in PMC by this Agreement. It is expressly understood and agreed that PMC is not a tenant, the City is not a landlord, and that PMC does not have any rights, whatsoever, as may exist under applicable Landlord – Tenant law or any other similar State or local laws or regulations.
3. PMC shall pay to the City, a total use and occupancy fee of FIVE HUNDRED DOLLARS, \$500.00, for a period of One (1) Day, which payment being due on the date of occupancy or within 15 days of execution of this Agreement, whichever is earlier.
4. PMC shall devise an aesthetic solution to obscure the view of its equipment and materials from neighborhood view.

5. PMC's right to use and occupy the Property in accordance with this Agreement shall begin upon execution of this Agreement and shall automatically terminate on July 24, 2025 at midnight, eastern prevailing time, (the "Termination") unless both parties agree to extend the agreement for an additional period.
6. In case of the destruction or damage of any kind whatsoever to the Property or any portion thereof, other than due to the City's sole negligence, which results in PMC not being able to use its designated portion of the Property, PMC shall immediately, as practical, vacate the Property, unless consent has been requested and received in writing.
7. Either party shall have the right to terminate this Agreement at any time upon thirty (30) days written notice to the other party.
8. PMC shall hold harmless and indemnify the City for all cost, liabilities and claims arising out of or related to the existence, maintenance, or use of the said use and occupancy of the City's Property, or any use of the City's Property by PMC. PMC further agrees to indemnify, defend and hold the City, its members and employees harmless from and against any loss, claims, expense or liability, including attorney's fees, arising out of or related to the loss or damage to PMC's personal property or injury or harm to third persons resulting from of or related to PMC's use and occupancy hereunder. PMC shall further release the City from any and all responsibility or liability for any loss or damage to PMC's property or injury to third parties caused by and during PMC's use or occupancy of the Property.
9. PMC shall obtain insurance conforming to the following terms:
 - a. PMC shall purchase and maintain insurance, in conformance with the provisions contained in this Agreement. This insurance will provide a defense to and indemnify the City against any such claim, damage, loss or expense that is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (other than the work itself) including the loss of use, which arises out of PMC's operations under this Agreement. This insurance shall apply regardless of whether the operations, actions, derelictions or failures to act from which the claim arises, are attributable to PMC, any of its contractors, officers, agents, subcontractors, employees, anyone directly or indirectly employed by any of them including anyone for whose acts of the aforementioned may be liable by operation of statute, government regulation, or applicable case law and the City, unless, caused by the sole negligence of the City.
 - b. Proof of this insurance shall be provided to the City before the upon execution of this Agreement. In no event shall the failure to provide this proof, prior to the execution of this Agreement, be deemed a waiver by the City of PMC's insurance obligations set forth herein.
 - c. In the event that the insurance company(ies) issuing the policy(ies) required by this section deny coverage to the City, PMC will defend and indemnify the City at the PMC's expense.

- d. PMC must obtain the required insurance with the carrier rated A-VII or better by A. M. Best. PMC shall maintain at least the limits of liability as set forth below:
- i. ***Commercial General Liability Insurance***
\$1,000,000.00 Each Occurrence (Bodily Injury and Property Damage)
\$2,000,000.00 General Aggregate
\$2,000,000.00 Products/Completed Operations Aggregate
\$1,000,000.00 Personal and Advertising Injury
Contractual liability that will respond to Indemnification clause, shall be included in the policy. The General Aggregate Limit shall apply separately to this Agreement. As an alternative, the PMC may provide Commercial General Liability Insurance with no aggregate.
 - ii. ***Protection and Indemnity Insurance (only required if boats, barges or other sea vessels are used)***
\$2,000,000 Each Occurrence Limit (Limit may be reduced to \$1,000,000 if this policy included in the Umbrella Liability Insurance).
Pollution Liability in an additional amount of \$1,000,000 must be included in the policy for Each Occurrence Limit.
 - iii. ***Comprehensive Automobile Liability Insurance***
\$1,000,000.00 Combined Single Limit Bodily Injury and Property Damage.
Coverage must include all owned, non-owned and hired vehicles used by PMC.
 - iv. ***Workers' Compensation and Employers' Liability Insurance***
\$500,000.00 Each Accident
\$500,000.00 Each Employee for Injury by Disease
\$500,000.00 Aggregate for Injury by Disease
If PMC is a Sole Proprietor, Partnership or LLC, Insurance Policy and Certificate must indicate that the proprietor/partners/members are "included". This requirement does not apply if inclusion is not allowed by law. If any employee of PMC or any subcontractor of PMC is subject to the United States Longshoremen and Harbor Workers Act or the Jones Acts, Certificate must indicate the coverage is included.
- e. The City, along with their respective elected or appointed officials, officers, agents and employees, shall be named as Additional Insureds for Operations and Products/Completed Operations on PMC's Commercial General Liability Policy which must be primary and noncontributory with respect to the Additional Insureds.
- f. It is expressly understood by the Parties to this Agreement that it is the intent of the Parties that any insurance obtained by the City is deemed excess, noncontributory and not co-primary in relation to the coverage(s) procured by PMC, any of its contractors, officers, agents, subcontractors, employees or anyone directly or indirectly employed by any of them or by anyone for whose acts any of the aforementioned may be liable by operations of statute, government regulation or applicable case law.

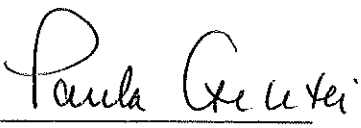
- g. If PMC's policy limits are greater than the minimum limits noted above, the minimum limits required are automatically adjusted to those greater limits.
 - h. A Waiver of Subrogation clause shall be added to the General Liability, Automobile Liability and Professional Liability policies in favor of the City and this clause shall apply to the City's elected or appointed officials, officers, agents and employees. It should also apply to PMC's Worker's Compensation policy if allowed by state law.
 - i. Prior to commencement of occupancy, PMC shall submit a Certificate of Insurance in favor of the City and as an Additional Insured Endorsement (in a form acceptable to the City) as required hereunder.
 - j. In any and all claims against the Additional Insureds by any employee of PMC, anyone directly or indirectly employed by PMC or anyone for whose acts PMC may be liable, the indemnification obligation shall not be limited by any limitation on the amount or type of damage, compensation or benefits payable by or for PMC under Workers' Compensation acts, disability benefit acts or other employee benefit acts.
 - k. PMC shall maintain in effect all insurance coverages required under this Agreement at PMC's sole expense and with insurance companies acceptable to the City. In the event PMC fails to obtain or maintain any insurance coverage required under this Agreement, the City may, at its sole discretion, purchase such coverage as desired for the City's benefit and charge the expense to PMC, or, in the alternative, terminate this Agreement. In the event the coverage is cancelled or non-renewed, the insurance carrier(s) will provide 30 days advance notice of the cancellation or non-renewal.
10. All notices shall be sent by certified mail, return receipt requested, to all Parties and are deemed received when sent. Notices shall be sent to the addresses of PMC and the City as set forth in this Agreement.
11. This Agreement is binding on and shall inure to the benefit of the Parties, their successors, and assigns. Notwithstanding anything to the contrary herein, PMC acknowledges and agrees that PMC shall not have the right to assign this Agreement.
12. This Agreement contains the entire agreement of the Parties as it pertains to the use and occupancy of the Property and shall not be modified, altered or changed unless in writing and signed and delivered by all the parties hereto.
13. This Agreement has been entered into solely for the benefit of the Parties. The Parties, by entering into this Agreement, do not intend to benefit any other third party and do not intend to bestow upon any third party any rights or entitlement. The Parties do not intend to create a right in any third party to compel performance of, or to otherwise assert any rights hereunder.
14. This Agreement may be signed in counterparts, all of which when taken together shall constitute a single agreement.

15. This Agreement shall not be recorded by the City. The filing or recordation of this Agreement in violation of this provision shall be deemed a default of this Agreement.

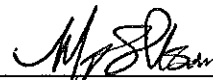
16. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date set forth on the first page hereof.

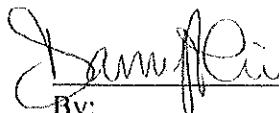
Witness:


Paula Geletei, 6/24/2026
City Clerk

THE CITY OF ATLANTIC CITY


By: Marty Small, Sr.
Title: Mayor

Witness:


By: Danielle Reilly

PMC MECHANICAL LLC


By: Nancy McAtee
Title: CFO

Approved as to the form and execution.


Jack Borenato, Esq., Asst. City Solicitor

Date: 6/22/2026