



Legislation Details (With Text)

**File #:** 21-0913      **Version:** 1      **Name:** Brandywine - Traffic & Signals - Capital Sale/Leaseback

**Type:** Ordinance      **Status:** Adopted

**File created:** 6/21/2021      **In control:** Economic and Housing Development

**On agenda:** 9/15/2021      **Final action:** 10/6/2021

**Title:** AN ORDINANCE AUTHORIZING CAPITAL SALE/LEASEBACK AGREEMENT AS A CAPITAL LEASE WITH BRANDYWINE ACQUISITION AND DEVELOPMENT, LLC, AS DESIGNATED REDEVELOPER, FOR THE REDEVELOPMENT OF THE IRVINE TURNER TRAFFIC FACILITY SITE FOR THE CITY OF NEWARK. (SOUTH WARD)

**Sponsors:** John Sharpe James, Eddie Osborne

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
10/6/2021	1	Municipal Council	Close on Public Hearing and Adopt	Pass
9/15/2021	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

**AN ORDINANCE AUTHORIZING CAPITAL SALE/LEASEBACK AGREEMENT AS A CAPITAL LEASE WITH BRANDYWINE ACQUISITION AND DEVELOPMENT, LLC, AS DESIGNATED REDEVELOPER, FOR THE REDEVELOPMENT OF THE IRVINE TURNER TRAFFIC FACILITY SITE FOR THE CITY OF NEWARK. (SOUTH WARD)**

**WHEREAS**, on June 15, 2005, pursuant to Municipal Council Resolution 7Rdo(AS), the entire City of Newark (the “City”) was designated an “area in need of rehabilitation” as defined by the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., including the lots located at 361-377 Irvine Turner Boulevard, 379-383 Irvine Turner Boulevard and 81-83 Hillside Avenue, also known as Block 2675, part of Lot 1 and Lots 25, and 46 on the official Tax Map of the City of Newark (“Property”); and

**WHEREAS**, on July 8, 2021, pursuant to Municipal Council Ordinance 6PSF-b, the City of Newark adopted the Irvine Turner Boulevard and Central Avenue Redevelopment Plan (the “Redevelopment Plan”), which governs the zoning of the Property; and

**WHEREAS**, companion legislation will be presented to the Municipal Council at the same meeting this legislation is presented designating Brandywine Acquisition and Development, LLC as the redeveloper of the Property that is to constitute the Irvine Turner Traffic Facility site; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12A-8, the City and the Redeveloper have negotiated a Capital Sale/Leaseback Agreement (“Agreement”) to govern the conveyance, financing and construction of the Property that is to constitute the new state-of-the-art Traffic Facility site; and

**WHEREAS**, N.J.S.A. 40A:12A-8(g) authorizes the City to “lease or convey property or

improvements to any other party . . . without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan . . . .”; and

**WHEREAS**, under the Agreement, the City will convey the Property to the designated redeveloper for the development of a new state-of-the-art Traffic Facility site pursuant to the City’s specifications that will be privately financed through capital lease payments for a term of twenty (20) years, after which time full fee ownership of the property and improvements revert back to the City; and

**WHEREAS**, the City has determined that the Agreement is beneficial by ensuring that the state-of-the-art Traffic Facility site is completed expeditiously and within a guaranteed maximum contract price without incurring any new debt.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The above recitals are incorporated by reference as if fully set forth herein.
2. The Municipal Council hereby approves the Capital Sale/Leaseback Agreement for the redevelopment of a new state-of-the-art Traffic Facility site with Brandywine Acquisition and Development, LLC, pursuant to the terms and conditions contained therein, which is attached hereto and made part hereof.
3. The Municipal Council hereby authorizes and directs the Mayor of the City of Newark to execute the Capital Sale/Leaseback Agreement upon adoption of this Ordinance.
4. The Municipal Council hereby authorizes and directs the City Business Administrator, Chief Financial Officer, Corporation Counsel, City Engineer and other City employees and agents to take any necessary and appropriate actions to effectuate the implementation of this Ordinance and the Capital Sale/Leaseback Agreement.
5. All ordinances of the City which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.
6. If any Section, Subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.
7. This Ordinance shall take effect immediately upon final passage, approval and publication as provided by law.

**STATEMENT**

This Ordinance authorizes a Capital Sale/Leaseback Agreement as a capital lease for twenty (20) years with Brandywine Acquisition and Development, LLC for redevelopment of certain properties within the Irvine Turner Boulevard and Central Avenue Redevelopment Plan area for the development of a new state-of-the-art Traffic Facility site for the City of Newark.

