



Legislation Details (With Text)

File #: 20-0711 **Version:** 1 **Name:** Ordinance: Lease Agreement - Holiday Inn (Airport)
Type: Ordinance **Status:** Adopted
File created: 6/16/2020 **In control:** Economic and Housing Development
On agenda: 6/24/2020 **Final action:** 7/8/2020

Title: AN ORDINANCE RATIFYING AND AUTHORIZING THE MAYOR AND/OR HIS DESIGNEE, THE BUSINESS ADMINISTRATOR, TO ENTER AND EXECUTE A LEASE AGREEMENT AIRPORT HOTEL NORTH, LLC d/b/a HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH, (LANDLORD), FOR THE PROPERTY LOCATED AT 160 FRONTAGE ROAD, NEWARK, NEW JERSEY 07114, BLOCK 5088, LOT 172 AND 174 FOR THE PERIOD COMMENCING ON JUNE 25, 2020, AND TERMINATING ON SEPTEMBER 1, 2020, FOR A TOTAL RENT AND ADDITIONAL RENT IN THE AMOUNT NOT TO EXCEED \$1,616,325.00 FOR HOUSING FOR THE HOMELESS TO COMBAT COVID-19 PUBLIC HEALTH EMERGENCY.

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
7/8/2020	1	Municipal Council	Close on Public Hearing and Adopt	Pass
6/24/2020	1	Municipal Council	reconsider	Pass
6/24/2020	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass
6/24/2020	1	Municipal Council	Advance to First Reading	Pass

AN ORDINANCE RATIFYING AND AUTHORIZING THE MAYOR AND/OR HIS DESIGNEE, THE BUSINESS ADMINISTRATOR, TO ENTER AND EXECUTE A LEASE AGREEMENT AIRPORT HOTEL NORTH, LLC d/b/a HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH, (LANDLORD), FOR THE PROPERTY LOCATED AT 160 FRONTAGE ROAD, NEWARK, NEW JERSEY 07114, BLOCK 5088, LOT 172 AND 174 FOR THE PERIOD COMMENCING ON JUNE 25, 2020, AND TERMINATING ON SEPTEMBER 1, 2020, FOR A TOTAL RENT AND ADDITIONAL RENT IN THE AMOUNT NOT TO EXCEED \$1,616,325.00 FOR HOUSING FOR THE HOMELESS TO COMBAT COVID-19 PUBLIC HEALTH EMERGENCY.

WHEREAS, the Landlord is the owner in fee simple of the land located at 160 Frontage Road, Newark, New Jersey 07114 (the "Land") and improvements, consisting of 409 hotel rooms within a ten-story hotel building, located at 160 Frontage Road, Newark, New Jersey 07114, as more particularly described as Block 5088, Lot 172 and 174 on the official tax map of the City of Newark, County of Essex, State of New Jersey (herein referred to as the "Building"); and

WHEREAS, pursuant to Executive Order 103, Governor Philip D. Murphy declared the existence of a Public Health Emergency ("Health Emergency"), pursuant to the Emergency Health Powers Act, N.J.S.A. 26:13-1, et. seq. ("Act") and a State Emergency, pursuant to the Disaster Control Act, in the State of New Jersey for the pandemic caused by COVID-19, a novel coronavirus first identified in China, which has spread to multiple countries worldwide, including the United States,

has been the cause of hundreds of deaths and is rapidly spreading in New Jersey; and

WHEREAS, pursuant to Executive Order 103, the spread of COVID-19 within New Jersey constitutes an imminent public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of several municipalities and counties in the State of New Jersey, including Essex County and the City of Newark; and

WHEREAS, pursuant to Executive Order 103, it shall be the duty of every person or entity in this State, or doing business in this State, to cooperate fully with the State Director of Emergency Management and the Commissioner of the Department of Health and their designees in all matters concerning' this state of emergency; and

WHEREAS, on March 25, 2020, in a sweeping effort to bolster Newark's defense against the spread of COVID-19, Mayor Ras J. Baraka announced a strict City-wide "shelter-in-place" mandate as a result of the 123 confirmed cases of Coronavirus (COVID-19) and a total of two deaths; and

WHEREAS, under the Health Emergency, the Commissioner and her designee, including the City of Newark, is empowered pursuant to N.J.S.A. 26:13-9(a), "[t]o procure, by condemnation or otherwise, subject to reasonable costs... lease, transport, store, maintain, renovate or distribute property and facilities as may be reasonable and necessary to respond to the public health emergency ..."; and

WHEREAS, under the Health Emergency, the City of Newark may, pursuant to N.J.S.A. 40A:11-6 and N.J.A.C. 5:34-6.1 issue a declaration of emergency to enter into a contract with an entity (or entities) to secure short term, rapid rental housing to aid those persons that are in immediate need of housing (i.e. the homeless) to combat the COVID-19 Public Health Emergency; and

WHEREAS, in order to take immediate action to combat the impact of the Covid-19 virus on those individuals located in the City of Newark, on April 4, 2020, the City of Newark's Purchasing Agent, pursuant to the emergency request made on April 4, 2020 from the Director of Economic and Housing Development, issued an updated emergency declaration for short term rapid housing related to the COVID-19 pandemic; and

WHEREAS, the City desires to use 325 rooms, single occupancy per room, as more particularly described in Exhibit A, which are located on floors three (3) through ten (10) in the Building, as well as designated common areas, as defined herein to include banquet entrance and banquet lobby, corridors from floors one (1) and three (3) through ten (10), stairways, elevators, , side entrances, and crew lounge on the first floor, ("Designated Common Areas") excluding but not limited to Landlord's/Hotel's in house laundry room, Executive Offices, Maintenance Office and Sales Office (collectively referred to as the "Premises"), for City of Newark healthcare purposes, which uses include, but are not limited to, providing rapid rental housing services to NON-COVID-19 Positive Patients (the "Purpose") in order to stem the spread of the COVID-19 pandemic and its impact on the homeless, senior population and any other vulnerable population; and

WHEREAS, the Landlord agrees to permit Tenant to use of the Premises only for the Purpose, as defied above, to address the public health emergency; and

WHEREAS, the City may under this Health Emergency use the Premises only for the

Purpose, as defined above, pursuant to the terms and conditions set forth herein; and

WHEREAS, this Lease shall not change the use, nature, and character of the Building owned by Landlord/Holiday Inn Hotel, which shall remain as a Hotel operation, and as HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH throughout the Term of Lease and any Extended Term; and

WHEREAS, pursuant to the ninety-day emergency declaration issued on April 4, 2020 by the City of Newark's Purchasing Agent, the City and Landlord entered into two separate lease agreements for the collective period of April 6, 2020 through June 24, 2020 setting forth the terms and conditions for the City's use of the Premises for the Purpose as set forth above; and

WHEREAS, the City of Newark wishes to extend the term of the above lease for the period of June 25, 2020 through September 1, 2020, which pursuant to the New Jersey Local Public Contract's Law (N.J.S.A. 40A:11-1 et seq.), requires the approval by the Newark Municipal Council.

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

Section 1. The Mayor and/or his designees, the Business Administrator and the Director of Engineering, are hereby authorized to enter into and execute the Lease Agreement, in the form attached hereto, on behalf of the City of Newark with AIRPORT HOTEL NORTH, LLC d/b/a HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH, 160 Frontage Road, Newark, NJ 07114, for the leasing of the Premises located at 160 Frontage Road, Newark, NJ 07114, as more particularly described as Block 5088, Lot 172 & 174 on the official tax map of the City of Newark, County of Essex, State of New Jersey, pursuant to N.J.S.A. 40:60-25.51, for the period of June 25, 2020 through September 1, 2020, for the total rent and additional rent amount not to exceed One Million Six Hundred Sixteen Thousand Three Hundred Twenty-Five Dollars and Zero Cents (\$1,616,325.00).

Section 2. The Municipal Council hereby ratifies the Lease Agreement from June 25, 2020, until the final passage and publication of this ordinance.

Section 3. There shall be no advance payment on this Lease Agreement.

Section 4. A copy of the Lease Agreement is attached hereto and made part hereof.

Section 5. A copy of the Lease Agreement and this ordinance shall be permanently filed in the Office of the City Clerk by the Business Administrator.

Section 6. The City of Newark is a governmental entity and any and all debts, expenses or obligations incurred by the City shall be payable only from funds available to the City for this purpose, and no liability or obligation shall be incurred by the City beyond the extent to which monies are appropriated and available and as such this Lease Agreement is subject in all events to the continued availability of funding by the City.

Section 7. Pursuant to N.J.A.C. 5:30-5.5, attached hereto is a partial Certification of Funds from the Director of the Department of Finance which states the funds in the amount of \$866,725.00 are available in the 2020 Preliminary Budget, Business Unit: NW026; Account#:32100; Budget Reference: B2020. The certification shall be filed along with the original resolution and the executed

contract in the Office of the City Clerk. The remainder of the funding for this contract will be subject to appropriation in the 2020 Municipal Budget and funds will be certified prior to services being provided by the contractor.

Section 8. The Lease Agreement satisfies and is in compliance with Newark Municipal Ordinance 2:4-16.

Section 9. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance ratifies and authorizes the Mayor and/or his designee, the Business Administrator, to enter into and execute a Lease Agreement with AIRPORT HOTEL NORTH, LLC d/b/a HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH, for the leasing of the Premises located at 160 Frontage Road, Newark, New Jersey 07114, as more particularly described as Block 5088, Lot 172 and 174 on the official tax map of the City of Newark, County of Essex, State of New Jersey. The term of the Lease Agreement is for the period of up to ninety (90) days, commencing on June 25, 2020 through September 1, 2020 for a total rent and additional rent not to exceed One Million Six Hundred Sixteen Thousand Three Hundred Twenty-Five Dollars and Zero Cents (\$1,616,325.00).