



City of Newark

City Hall
920 Mayor Kenneth A.
Gibson Boulevard
Newark, New Jersey 07102

Legislation Text

File #: 21-0828, Version: 1

AN ORDINANCE AUTHORIZING CAPITAL SALE/LEASEBACK AGREEMENT AS A CAPITAL LEASE WITH BRANDYWINE ACQUISITION AND DEVELOPMENT, LLC, AS DESIGNATED REDEVELOPER, FOR REDEVELOPMENT OF THE EVIDENCE STORAGE FACILITY SITE FOR THE CITY OF NEWARK.

WHEREAS, on June 15, 2005, pursuant to Resolution 7Rdo(AS), adopted by the Municipal Council, the entire City of Newark 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 775 Bergen Street, 777 Bergen Street, 779-781 Bergen Street, 783 Bergen Street, 785 Bergen Street, 787-791 Bergen Street, 793 Bergen Street, 178 W. Runyon Street, 174-176 W. Runyon Street and 172 W. Runyon Street, also known as Block 2711, Lots 1, 2, 3, 4, 6, 7, 8, 11, 53, 54 and 56 on the Official Tax Map of the City of Newark (“Property”); and

WHEREAS, on January 5, 2017, pursuant to Ordinance 6PSF-b, adopted by the Municipal Council, the City of Newark adopted the South Bergen Street Redevelopment Plan (the “Redevelopment Plan”), as last amended by Ordinance 6PSF-e on April 7, 2020, 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 (“Redeveloper”) of the Property that is to constitute the Evidence Storage 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 Evidence Storage 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 Evidence Storage 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 Evidence Storage 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:

SECTION 1. The above recitals are incorporated by reference as if fully set forth herein.

SECTION 2. The Municipal Council hereby approves the Capital Sale/Leaseback Agreement for the redevelopment of a new state-of-the-art Evidence Storage Facility site with Brandywine Acquisition and Development, LLC, pursuant to the terms and conditions contained therein, which is attached hereto and made part hereof.

SECTION 3. The Municipal Council hereby authorizes and directs the Mayor of the City of Newark and/or his designee, Deputy Mayor/Director of the Department of Economic and Housing Development to enter into and execute the Capital Sale/Leaseback Agreement upon adoption of this ordinance.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 7. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

Ordinance authorizing the Mayor of the City of Newark and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development to enter into and execute the 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 South Bergen Street Redevelopment Plan area for the development of a new state-of-the-art Evidence Storage Facility site for the City of Newark.