



## Legislation Text

File #: 20-1593, Version: 1

**AN ORDINANCE RATIFYING AND AUTHORIZING 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 PROPERTY LOCATED AT 160 FRONTAGE ROAD, NEWARK, NEW JERSEY 07114, BLOCK 5088, LOT 172 AND 174 FOR THE PERIOD COMMENCING ON NOVEMBER 3, 2020, AND TERMINATING ON SEPTEMBER 30, 2021, FOR A TOTAL RENT AND ADDITIONAL RENT IN AN AMOUNT NOT TO EXCEED \$3,135,050.00 FOR HOUSING FOR THE HOMELESS TO COMBAT COVID-19 PUBLIC HEALTH EMERGENCY. (EAST WARD)**  
**Deferred 6PSF-d 010621**

**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 (10) 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. (the "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 (2) 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 Deputy Mayor/Director of the Department 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 up to 225 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 (90) day emergency declaration issued on April 4, 2020 by the City of Newark’s Purchasing Agent, the City and Landlord entered into three (3) separate lease agreements for the collective period of April 6, 2020 through November 2, 2020 setting forth the terms and conditions for the City’s use of the Premises for the Purpose as set forth above; and

**WHEREAS**, on July 8, 2020 the Municipal Council adopted Ordinance 6PSF-e authorizing the Mayor and/or his designee, the Business Administrator to enter into and execute a lease agreement between the City of Newark with AIRPORT HOTEL NORTH, LLC d/b/a HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH, 160 Frontage Road, Newark, New Jersey 07114, 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, 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); and

**WHEREAS**, on October 7, 2020 the Municipal Council adopted Ordinance 6PSF-e authorizing the Mayor and/or his designee, the Business Administrator to enter into and execute a lease agreement between the City of Newark with AIRPORT HOTEL NORTH, LLC d/b/a HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH, 160 Frontage Road, Newark, New Jersey 07114, 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, 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 Seven Hundred Twenty Six Thousand One Hundred and Seventy Five Dollars and Zero Cents (\$726,175.00); and

**WHEREAS**, on October 9, 2020 the City exercised the approved 30 day extension, authorized by Municipal Council adopted Ordinance 6PSF-c authorizing the Mayor and/or his designee, the Business Administrator to enter into and execute a lease agreement between the City of Newark with AIRPORT HOTEL NORTH, LLC d/b/a HOLIDAY INN NEWARK INTERNATIONAL AIRPORT NORTH, 160 Frontage Road, Newark, New Jersey 07114, 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, pursuant to N.J.S.A. 40:60-25.51, for the period of September 2 through October 2, 2020 for the total rent and additional rent amount not to exceed Seven Hundred Twenty Six Thousand One Hundred and Seventy Five Dollars and Zero Cents (\$726,175.00); and

**WHEREAS**, The Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act, is a \$2.2 trillion economic stimulus bill passed by the 116th U.S. Congress and signed into law by President Donald Trump on March 27, 2020 in response to the economic fallout of the COVID-19 pandemic in the United States; and

**WHEREAS**, the CARES Act made available Emergency Shelter Grant (ESG) funding to be used to provide homelessness prevention assistance as authorized under 24 CFR 576.103 or subsequent notices issued by the United States Department of Housing and Urban Development (HUD) to any individual or family who does not have income higher than HUD's Very Low Income limit for the area and meets the criteria in paragraphs (1) (ii) of the "at risk homelessness" definition in 24 CFR 576.3; and

**WHEREAS**, the recipients of the ESG funds may deviate from applicable procurement standards when using these funds to procure goods and services to prevent, prepare for and respond to coronavirus, notwithstanding, 24 CFR 576.407 (f) and 2 CFR 200.317-200.326; and

**WHEREAS**, the City of Newark wishes to extend the term of the above lease for the period of November 3, 2020 through September 30, 2021, to use the Premises for the Purpose as set forth above, which requires a revised lease agreement, which is approved by the Municipal Council.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF**

**NEWARK, NEW JERSEY, THAT:**

1. The Mayor and/or his designee, the Business Administrator 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, New Jersey 07114, 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, pursuant to N.J.S.A. 40:60-25.51, for the period of November 3, 2020 through September 30, 2021, for the total rent and additional rent amount not to exceed Three Million One Hundred Thirty-Five Thousand Fifty Dollars and Zero Cents (\$3,135,050.00).

2. The Mayor and/or his designee, the Business Administrator is hereby authorized to extend the term of the lease for one (1) additional month without approval by the Municipal Council, subject to the same terms of the lease authorized herein and the availability of funds and further subject to full written disclosure of such extension (in the form of a signed Memorandum to be submitted to the Office of the City Clerk prior to adoption) to the Municipal Council by the Business Administrator and the approval of the City's Corporation Counsel.

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

4. There shall be no advance payment on this Lease Agreement.

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

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

7. The City of Newark is a governmental entity and any and all debts, expenses or obligations incurred by the City for this lease shall be payable only from funds available to the City for this purpose, and no legal 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.

8. Pursuant to N.J.A.C. 5:30-5.5, attached hereto is a Certification of Funds from the Director of the Department of Finance which states the funds in the amount of \$3,135,050.00 are available in the 2020 Budget from an Emergency Shelter Grant the City received from the Department of Housing and Urban Development as follows: Business Unit: NW051; Dept.: G20; Div. Proj.: 2H211; Account# 72030; 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.

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

10. 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, pursuant to N.J.S.A. 40:60-25.51, for the period of November 3, 2020 through September 30, 2021, for the total rent and additional rent amount not to exceed \$3,135,050.(East Ward)