



Legislation Text

File #: 18-1946, Version: 1

ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT BY WHICH THE CITY OF NEWARK WILL LEASE FROM THE PARKING AUTHORITY OF THE CITY OF NEWARK, APPROXIMATELY 12,460 SQ. FT. OF OFFICE SPACE TO BE UTILIZED BY THE FINANCE DEPARTMENT AND APPROXIMATELY 11,840 SQ. FT. OF OFFICE AND/OR STORAGE SPACE TO BE UTILIZED BY THE MUNICIPAL COURT; AND THE CITY WILL HAVE THE RIGHT TO THE DAILY USE AND OCCUPANCY, DURING NORMAL BUSINESS HOURS, MONDAY THROUGH FRIDAY, EXCLUDING HOLIDAYS, OF TWO HUNDRED FIFTY-EIGHT (258) PARKING SPACES; ON THE PROPERTY LOCATED AT 47-63 GREEN STREET, NEWARK, NEW JERSEY, 07102, ALSO KNOWN AS BLOCK 873, LOT 1.03 IN THE EAST WARD FOR A PERIOD OF THIRTY (30) YEARS.

Failed 6PSF-b 020619

Deferred 6PSF-c 022219

WHEREAS, pursuant to the Local Lands and Buildings Law (N.J.S.A. 40A:12-1, et seq.), the City of Newark ("City") is authorized to acquire real property interests, for public purposes, through lease agreements; and

WHEREAS, in accordance with N.J.S.A. 40A:12-5 (a) "Any county, by resolution, or any municipality, by ordinance may provide for the acquisition of any real property, capital improvement, or personal property . . . by purchase, gift, devise, lease, exchange, condemnation, or installment agreement;" and

WHEREAS, on July 12, 2017, the Municipal Council of the City of Newark (the "Municipal Council") adopted Ordinance 6PSF-b which authorized the Mayor and/or his designee, the Director of the Department of Economic and Housing Development to execute an Agreement for Private Sale and Redevelopment of the property, for \$1.00, located at 47-63 Green Street, Newark, New Jersey, 07102, also known as Block 873, Lot 1.03 on the official tax map of the City of Newark (the "Property"), to the Parking Authority of the City of Newark (the "Parking Authority"), a public body corporate and politic and a political subdivision of the State of New Jersey, 50 Park Place, Suite 919, Newark, New Jersey 07102 ("Redeveloper"); and

WHEREAS, the Agreement for the Sale of Land and the Redevelopment with the Redeveloper authorized by Ordinance 6PSF-b, July 12, 2017, which was fully executed on May 24, 2018 (the "Original Redevelopment Agreement"); and

WHEREAS, the Original Redevelopment Agreement provided for the construction of a parking structure and building attached thereto (the "Facility") on the property located at 47-63 Green Street, Newark; and

WHEREAS, the Original Redevelopment Agreement provided that the Redeveloper would

construct a six (6) story, mixed-use structure which would include administrative offices, including offices for the Newark Parking Authority, the City's Finance Office, and the Municipal Court of the City of Newark; ground floor retail space; a café with indoor and outdoor seating; and a parking deck ("Parking Deck") with approximately six hundred forty-five (645) parking spaces ("Total Parking Spaces") (collectively referred to as the "Project"); and

WHEREAS, the Redeveloper sought to modify the scope of the Project by reducing the number of stories of the Parking Deck from six (6) to five (5) stories and Total Parking Spaces from six hundred forty-five (645) to five hundred fifteen (515) spaces (the "First Amendment to the Redevelopment Agreement"); and

WHEREAS, the Original Redevelopment Agreement authorized the then Director of the Department of Economic and Housing Development to effectuate certain business terms and conditions related to the Property and the Redevelopment Agreement without the approval of the Municipal Council; and

WHEREAS, on December 18, 2018 the Director of the Department of Economic and Housing Development entered into and executed the First Amendment to the Sale of Land and Redevelopment Agreement to authorize the modifications sought out from the Redeveloper; and

WHEREAS, the Facility shall now be comprised of a mixed use development project containing: a 515-space parking garage, approximately 12,460 square feet office space to be utilized by the Finance Department; approximately 11,840 square feet of office and storage space to be utilized by the Municipal Court; approximately 15,000 square feet of office space for the Parking Authority; retail space measuring approximately 2,200 square feet located on the first floor of the building, together with site improvements, common areas, public improvements, and; other ancillary improvements to the parking structure and the building; and

WHEREAS, the City intends to lease the following portions of the Facility in accordance with the First Amendment to the Redevelopment Agreement and the Original Redevelopment Agreement for a term of thirty (30) years to commence upon full satisfaction of all terms and conditions contracted for within the First Amendment to the Redevelopment Agreement, the Original Redevelopment Agreement, and the issuance of a Certificate of Occupancy of the Lease Premises: approximately 12,460 square feet of office space to be used and occupied by the Finance Department and approximately 11,840 square feet of document storage and/or office space to be used and occupied by the Municipal Court, together with all furniture, fixtures, equipment and improvements installed therein; Two Hundred Fifty-Eight (258) designated parking spaces within the parking facility at no additional charge, fee or expense, to be utilized during normal business hours, which shall be from 8:00 a.m. to 5:30 p.m. from Monday through Friday, except for Holidays recognized by the City on which days the City shall have no right to access; and Fifty (50) of the Two Hundred Fifty Eight (258) parking spaces will be designated for permanent and continuous utilization by employees of the Tenant without restrictions, including during Arena events (the "Lease Premises"); and

WHEREAS, in accordance with Article 3 of the Lease Agreement, the City shall make rental payments of approximately \$27.00 per square foot with a 5.00% escalator every three (3) years, in accordance with the Lease Payment Schedule attached hereto as **Exhibit B**; and

WHEREAS, the authorization of this lease is subject to the transfer of the property to the Redeveloper; the full performance and satisfaction of all terms and conditions contracted for within the First Amendment to the Redevelopment Agreement and the Original Redevelopment Agreement; and the issuance of a Certificate of Occupancy of the Lease Premises; and

WHEREAS, there is no option for the Tenant to buy at the end of the thirty (30) year lease and there is no Reverter clause once the Certificate of Completion is given as per the Ordinance 6PSF-b, July 12, 2017; and

WHEREAS, the Municipal Council wishes to authorize the Mayor to execute the Lease Agreement with the Redeveloper, in substantially the form attached as Exhibit A, for the lease of the aforementioned portions of the Facility.

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

SECTION 1. The City is hereby authorized, in accordance with N.J.S.A. 40A:12-5, to lease approximately 12,460 square feet of office space to be used and occupied by the Finance Department and approximately 11,840 square feet of document storage and/or office space to be used and occupied by the Municipal Court, together with all furniture, fixtures, equipment and improvements installed therein, and including the parking spaces to which the City is entitled pursuant to the Lease Agreement attached hereto as **Exhibit A**.

SECTION 2. The City shall lease the Leased Premises from the Parking Authority for a period of thirty (30) years to commence upon full satisfaction of all terms and conditions contracted for within the First Amendment to the Redevelopment Agreement and the Original Redevelopment Agreement, and the issuance of a Certificate of Occupancy for the Lease Premises.

SECTION 3. The authorization of this lease is subject to the transfer of the property to the Parking Authority; the full performance and satisfaction of all terms and conditions contracted for within the First Amendment to the Redevelopment Agreement and the Original Redevelopment Agreement; and the issuance of a Certificate of Occupancy of the Lease Premises.

SECTION 4. The City shall make rental payments of approximately \$27.00 per square foot with a 5.00% escalator every 3 years, upon the commencement of the Lease Agreement, in accordance with the Lease Payment Schedule attached hereto as **Exhibit B**.

SECTION 5. The Mayor and all City officials, employees, and consultants are hereby authorized to take action as necessary to effectuate the purposes of this Ordinance.

SECTION 6. The Mayor is hereby authorized to execute the Lease Agreement, other agreements, and/or legal documents necessary to accomplish the acquisition of the Leased Premises in accordance with N.J.S.A. 40A:12-5.

SECTION 7. A copy of the Ordinance and any agreements authorized herein shall be placed on file with the City Clerk's office by the Director of the Department of Economic and Housing Development.

SECTION 8. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

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 authorizes the execution of a Lease Agreement between the City of Newark and the Parking Authority of the City of Newark by which the lease shall become effective upon full satisfaction of all terms and conditions contracted for within the First Amendment to the Redevelopment Agreement and the Original Redevelopment Agreement, and an issuance of a Certificate of Occupancy; and the City shall lease approximately 12,460 sq. ft. of office space to be utilized by the Finance Department and approximately 11,840 sq. ft. of office and/or storage space to be utilized by the Municipal Court, at approximately \$27.00 per sq. ft. with a 5.00% escalator every 3 years; and the City will have the right to the daily use and occupancy, during normal business hours, Monday through Friday, excluding holidays, of two hundred fifty-eight (258) parking spaces on the property located on at 47-63 Green Street, Newark, New Jersey, 07102, also known as Block 873, Lot 1.03, on the official tax map of the City of Newark (East Ward).