



## Legislation Text

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File #: 20-0889, Version: 1

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**ORDINANCE AUTHORIZING THE MAYOR, AND/OR HIS DESIGNEE, THE DEPUTY MAYOR/DIRECTOR OF THE DEPARTMENT OF ECONOMIC AND HOUSING DEVELOPMENT TO ENTER INTO A LEASE AGREEMENT FOR WITH EL SID PROPERTIES, LLC ("EL SID") FOR THE PURPOSE OF RELOCATING CERTAIN PUBLIC SAFETY FACILITIES.**

**DEFERRED 6PSF-h 081920**

**WHEREAS**, by Resolution 7R3-a(S) adopted by the Municipal Council of the City of Newark ("Municipal Council") on August 17, 2010 (the "Original Redevelopment Agreement"), the City executed a Redevelopment Agreement with Doremus Newark II, LLC ("Doremus II"), which was authorized in connection with the redevelopment of certain properties pursuant to the East Ward Redevelopment Plan; and

**WHEREAS**, at the time of the execution of the Original Redevelopment Agreement, El Sid was a 50% member of Doremus II; and

**WHEREAS**, the original redevelopment project set forth in the Original Redevelopment Agreement to be undertaken by Doremus II included the acquisition and redevelopment of the City-owned parcel at Block 5074, Lot 1 (more commonly known as the "Central Steel Drum Site" or "Central Steel Site") and the redevelopment of the adjacent property owned by Doremus II located at Block 5074, Lots 5, 9, and 9.01 on the Tax Maps of the City of Newark (more commonly known as the "Motiva Site"); and

**WHEREAS**, the original project comprised a 200,000 sq. ft. industrial facility and a new gun range specifically for the use of the City's Department of Public Safety, to be relocated upon the Central Steel Site from the Motiva Site and utilized by the City for up to ninety-nine (99) years at \$1/year (the "Original Project"); and

**WHEREAS**, in or about 2017, the City was advised that since the Effective Date of the Original Redevelopment Agreement, in December 2013, certain litigation commenced between the members of Doremus II, which the City is further advised resulted in a Confidential Settlement Agreement and Release (the "Settlement Agreement") dated on or about October 20, 2016, a copy of which has not been provided to the City; and

**WHEREAS**, Redeveloper has advised the City that pursuant to the Settlement Agreement, the Motiva Site is owned entirely by Doremus, which is owned 100% by Equity Industrial Partners ("EIP"), an entity that is unrelated to Doremus II, and Doremus assigned and transferred 100% of its interest in Doremus II to El Sid, which resulted in El Sid owning 100% of the interest in Doremus II, and thus, the right to acquire the Central Steel Drum Site and implement the Original Project under the Original Redevelopment Agreement; and

**WHEREAS**, pursuant to a separate lease dating back to 1993, the City of Newark, Department of Public Safety, Police Division's firing range (the "Gun Range") has been located upon a portion of the Motiva Site, owned solely by Doremus; and

**WHEREAS**, the City and El Sid acknowledged the need to amend the Original Redevelopment Agreement in order to, *inter alia*, (i) ratify the previous Transfer from Doremus II to El Sid; and (ii) redefine the redevelopment project; and

**WHEREAS**, by Resolution 7R2-c(AS), adopted by the Municipal Council on October 2, 2019, the City executed the First Amendment of the Original Redevelopment Agreement; and

**WHEREAS**, El Sid, as the designated exclusive "Redeveloper" under the Original Redevelopment Agreement, as amended by the First Amendment, is obligated to construct a new Firing Range, with all new equipment, upon the Central Steel Site, to be utilized by the City's Department of Public Safety, Police Division ("Police Department"), as set forth in the First Amendment, and pursuant to a proposed form of lease agreement which is annexed hereto as Schedule A (the "Lease Agreement"); and

**WHEREAS**, El Sid is obligated to construct the Firing Range in accordance with the Construction Details Plan approved by the Director of the Department of Public Safety and annexed to the Lease Agreement; and

**WHEREAS**, in addition to the Premises described in the Lease Agreement, the City shall also have use of the driveway for vehicular access to the Premises, as set forth in the Exhibits annexed to the Lease Agreement; and

**WHEREAS**, upon the completion of the construction of the new Firing Range, the City's conveyance of the Central Steel Site to El Sid, and the City's occupancy of the Premises, as that term is defined herein, by the Police Division, the Term of the lease shall commence; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12-5(a), the City is authorized to acquire real property by Ordinance by "purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12-5(a)(2), the City may acquire real property that is subject to lawful conditions, restrictions or limitations as to its use by the county or municipality, provided the governing body accepts such lawful conditions, restrictions or limitations; and

**WHEREAS**, the Lease Agreement imposes the following, *inter alia*, conditions, restrictions or limitations on the City:

1. The City shall not be required to pay rent for a period of the first three (3) years of its occupancy (the "Rent Abatement Period");

2. Upon conclusion of the Rent Abatement Period, the City shall pay rent for its occupancy of the Premises at a rate based on fair market value to be determined in the future and which shall be subject to an amendment of the Lease Agreement as well as formal approval by the Municipal Council, for a period of seventeen (17) years for a total term of twenty (20) years, which term may be

renewed; and

3. Lease payments shall not be subject to annual appropriations.

**WHEREAS**, by Resolution 7R2-a(S), adopted by the Municipal Council on July 14, 2020, the City authorized the Second Amendment of the Redevelopment Agreement to perfect certain terms regarding the conveyance of title of the property from the City to the redeveloper, among other things.

**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 Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to: (i) execute the Lease Agreement in the form annexed hereto; (ii) execute and record in the Registrar's Office of Essex County the Form of Memorandum of Lease annexed to the Lease Agreement; and (iii) execute the Form of Discharge of Memorandum of Lease annexed to the Lease Agreement, to be held in escrow in accordance with the terms of the Lease Agreement; (iv) execute the Form of Escrow Agreement annexed to the Lease Agreement; and (v) to effectuate any other terms and conditions contained in the Lease Agreement and Exhibits annexed thereto. Such authorized officers are hereby further authorized to take such additional actions as may be necessary to consummate the transaction contemplated by the Lease Agreement and the related documents attached thereto.
2. A copy of the fully executed Lease Agreement with all Exhibits thereto, and all other documents which are executed in relation therewith, shall be placed on file in the Office of the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.
3. 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 and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development, to execute a Lease Agreement and related documents for the operation of a Firing Range by the City's Department of Public Safety, Police Division, on the Central Steel Drum Site to be constructed by El Sid Properties, LLC..