

ORDINANCE #2713-23-0705

APPROVING A FOURTH AMENDMENT TO THE BUILD TO SUIT LEASE FOR PROPERTY KNOWN AS TAX BLOCK 73, LOT 16.02 LOCATED IN THE GASTON AVENUE REDEVELOPMENT AREA WITH FDS SOMERVILLE NJ, LLC, THE CONTRACT REDEVELOPER PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ. FOR THE EMERGENCY SERVICES FACILITY PROJECT

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Somerville that:

SECTION 1. Pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”), a municipality may sell, convey or lease any of its property to a redeveloper for the purpose of clearance, re-planning, development and redevelopment of a redevelopment area provided that the sale, conveyance or lease is made in conjunction with a redevelopment plan.

SECTION 2. Pursuant to the Redevelopment Law, the Borough Council of the Borough of Somerville (the “Borough”) adopted a resolution designating an area in need of redevelopment, known as the Gaston Avenue Redevelopment Area (“Redevelopment Area”).

SECTION 3. Pursuant to the Redevelopment Law, on October 14, 2015, the Borough, by ordinance, adopted a redevelopment plan for the Redevelopment Area entitled the Gaston Avenue Redevelopment Plan, which Redevelopment Plan was amended by the Borough in December 2016 (“Redevelopment Plan”).

SECTION 4. Tax Block 73, Lot 16.02 (the “Property”) is located in the Redevelopment Area and subject to the Redevelopment Plan.

SECTION 5. The Property is owned by the Borough, is currently vacant land and formerly included vacant commercial and residential buildings.

SECTION 6. On September 7, 2021, the Borough adopted a resolution approving a redevelopment agreement (the “Redevelopment Agreement”) with FDS Somerville NJ, LLC, the designated redeveloper for the redevelopment of the Property (the “Redeveloper”).

SECTION 7. The Redevelopment Agreement requires the Redeveloper to redevelop the Property with an emergency services facility project in accordance with the Redevelopment Plan (the “Project”).

SECTION 8. On October 4, 2021, the Borough adopted an ordinance approving and authorizing the Borough to enter into a ground lease with the Redeveloper

for the Property and the parties subsequently executed a Ground Lease for the Property on or about January 17, 2022.

SECTION 9. On October 4, 2021, the Borough adopted an ordinance approving and authorizing the Borough to enter into a build to suit lease with the Redeveloper for the Property and the parties subsequently executed a Build To Suit Lease for the Property on or about January 17, 2022 (the “Build Lease”).

SECTION 10. On March 21, 2022, the Borough adopted an ordinance approving an amendment to the Build Lease and authorizing the Borough to enter into the First Amendment to the Build Lease with the Redeveloper for the Property.

SECTION 11. April 18, 2022, the Borough adopted an ordinance approving a second amendment to the Build Lease and authorizing the Borough to enter into the Second Amendment to the Build Lease with the Redeveloper for the Property.

SECTION 12. On April 18, 2022, the Borough adopted an ordinance approving a third amendment to the Build Lease and authorizing the Borough to enter into the Third Amendment to the Build Lease with the Redeveloper for the Property.

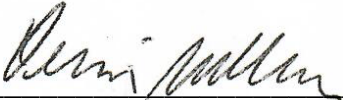
SECTION 13. The Borough and Redeveloper have agreed to amend the Build Lease with a fourth amendment as follows:

- a) Exhibit E to the Lease is hereby deleted and replaced with **Exhibit E** attached hereto [to the Fourth Amendment to the Build to Suit Lease].

SECTION 14. The Mayor and Borough Clerk are authorized to execute any and all documents necessary for the Fourth Amendment to the Build to Suit Lease for the Property, in a form substantially consistent with the document attached hereto, subject to the review and approval of such documents by the Borough’s legal counsel.

SECTION 15. This ordinance shall take effect upon final passage and publication as required by law.

Introduction: July 5, 2023
First Publication: July 9, 2023
Adoption: August 7, 2023
Final Publication: August 11, 2023



Dennis Sullivan, Mayor



Kevin Sluka, Clerk/Administrator