

**BOROUGH OF SOMERVILLE
EXECUTIVE SESSION / WORKSHOP SESSION / COUNCIL MEETING
AGENDA**

**Monday, March 7, 2022
6:30 P.M.**

LOCATION: COUNCIL CHAMBERS – POLICE HEADQUARTERS
24 SOUTH BRIDGE STREET, SOMERVILLE, NJ 08876

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- 1. OPEN PUBLIC MEETING LAW STATEMENT**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES- EXECUTIVE SESSION**
 - a. February 22, 2022
- 4. RESOLUTION 22-0307-067 TO ENTER INTO EXECUTIVE SESSION**

EXECUTIVE SESSION AGENDA

- a. Redevelopment
- b. Personnel- AFSCMENJ
- c. Potential Litigation – RWJ Hospital
- d. Public Property- Lease

COUNCIL MEETING AGENDA

- 1. OPEN PUBLIC MEETING LAW STATEMENT**
- 2. ROLL CALL**
- 3. SALUTE TO THE FLAG**
- 4. APPROVAL OF MINUTES**
 - a. February 22, 2022
- 5. DEPARTMENTAL REPORTS & NOTICES**
 - a. Notice to Proceed on Fairmont & Grant Avenue curb project
 - b. Sanitary Sewer Operations Report
 - c. SRVSA Collections Report

6. PROCLAMATION & RESOLUTION

- a. American Red Cross
- b. Patrick J. Callahan
- c. Women’s History Month

7. COMMITTEE REPORTS

8. DISCUSSION

- a. Bridget Lacerda - Gold Award Project
- b. Full Continued Certificate of Occupancy Program
- c. Emergency Services update

9. ORDINANCES FOR INTRODUCTION

2666-22-0307 ORDINANCE TO EXCEED THE CY 2022 MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)

2667-22-0307 AMENDING CHAPTER 147 SECTION 5 ENTITLED “PERMITTED NUMBER OF STICKERS; STICKERS, BULK ITEMS” SPECIFICALLY AMENDING SECTION (B) AMENDING THE COSTS FOR STICKERS TO FIVE DOLLARS (\$5) AND SPECIFICALLY ALLOWING BULK ITEMS TO BE PART OF THE SANITATION STICKER PROGRAM

2668-22-0307 AMENDING ORDINANCE #2515-17-0221 CHAPTER 45, ALCOHOLIC BEVERAGES, ARTICLE 1, LICENSING; REGULATIONS SECTION 7; FEES SUBSECTION A, PARAGRAPHS 1-6

2669-22-0307 APPROVING AN 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

10. ORDINANCES FOR PUBLIC HEARING AND ADOPTION (full copy is available at the end of this agenda)

2661-22-0118 AUTHORIZING AND ENCOURAGING ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT(EVSE) & MAKE-READY PARKING SPACES

- 2662-22-0207 AMENDING CHAPTER 80 ENTITLED FIRE PREVENTION; LIFE SAFETY SECTION 7 ENTITLED "ADDITIONAL REQUIRED INSPECTION AND FEES" SUBSECTION B(9) ENTITLED CLASS IV. AMENDING THE FEE SCHEDULE FOR MULTIPLE DWELLINGS INCLUDING PARKING DECK/PARKING STRUCTURES
- 2663-22-0207 AMENDING CHAPTER 166-44 SCHEDULE III ENTITLED "NO STOPPING OR STANDING" TO INCLUDE SOUTH BRIDGE STREET BETWEEN VETERANS MEMORIAL DRIVE AND SECOND STREET
- 2664-22-0207 APPROVING AN AMENDMENT TO THE FINANCIAL AGREEMENT AND AUTHORIZING EXECUTION OF AN AMENDMENT AND RESTATED FINANCIAL AGREEMENT BY AND BETWEEN THE BOROUGH OF SOMERVILLE AND A & A SOMERVILLE URBAN RENEWAL, LLC PURSUANT TO N.J.S.A. 40A:20-1 ET SEQ. FOR PROPERTY LOCATED ON 40 HAYNES STREET, ALSO KNOWN AS LOTS 3, 13 AND 14 IN BLOCK 50, AS SHOWN ON THE OFFICIAL TAX MAP OF THE BOROUGH OF SOMERVILLE, LOCATED IN THE KIRBY AVENUE REDEVELOPMENT AREA

11. MEETING OPEN TO THE PUBLIC

(Motion and 2nd needed and roll call vote to open and close the meeting to the public. Regulations that apply during public meetings also apply during electronic meetings. Comments may be submitted prior to the meeting and maybe summarized during the meeting)

12. CONSENT RESOLUTIONS (ANY ITEMS PULLED OFF CONSENT AGENDA ARE REQUIRED TO HAVE A MOTION AND ROLL CALL VOTE)

(RESOLUTIONS 22-0307-068 THRU 22-0307-085)

(Resolutions may be pulled off consent agenda for discussion and roll call vote. Resolutions may be removed or added to the agenda)

- 22-0307-068 URGING THE SWIFT PASSAGE OF S-330 WHICH RESTORES ENERGY TAX RECEIPTS
- 22-0307-069 APPROVING THE SUBMISSION OF THE 2022 AARP COMMUNITY CHALLENGE GRANT FOR FUNDING FOR THE SOMERVILLE GREENWAY REVITALIZATION
- 22-0307-070 DESIGNATING SOMERVILLE BOROUGH AS A STIGMA-FREE COMMUNITY
- 22-0307-071 CANCELLING LANDLORD REGISTRATION FEE CREDITS

- 22-0307-072 AUTHORIZING PAYMENT OF THE \$500.00 APPLICATION FEE FOR A GRANT FROM THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND TO THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (NJ EDA) FOR THE REMEDIATION OF PORTIONS OF BLOCK 124, LOTS 1 AND 21 WITHIN THE FORMER MUNICIPAL LANDFILL
- 22-0307-073 SUPPORTING AN APPLICATION FOR AN HDSRF GRANT FOR THE REMEDIATION OF PORTION OF THE LANDFILL BDA REDEVELOPMENT AREA, LOCATED ON ROUTE 206 NORTH IN THE BOROUGH OF SOMERVILLE
- 22-0307-074 AWARDED A CONTRACT TO DESANTIS CONSTRUCTION, INC. FOR PARKING LOT 8 IMPROVEMENTS IN THE AMOUNT OF \$149,379.28
- 22-0307-075 AUTHORIZING REFUND ON REMAINING ESCROW BALANCE ON APPLICATION #2021-01Z TO FRANK PULICE IN THE AMOUNT OF \$1,730.00 FOR ADDRESS KNOWN AS 184 EAST SPRING STREET BLOCK 82 LOT 23
- 22-0307-076 AUTHORIZING REFUND ON REMAINING ESCROW BALANCE ON APPLICATION #2021-01Z TO DAN RADZIEWICZ IN THE AMOUNT OF \$320.00 FOR ADDRESS KNOWN AS 25-37 NORTH MIDDAGH STREET BLOCK 127 LOT 9
- 22-0307-077 AUTHORIZING SUBMISSION OF A NEW JERSEY HISTORIC TRUST FUND GRANT APPLICATION FOR THE DANIEL ROBERT HOUSE RESTORATION
- 22-0307-078 APPROVING NEW JERSEY FIREMEN'S ASSOCIATION APPLICATION FOR TOMASZ RODRIGUES
- 22-0307-079 AUTHORIZING PAYMENT TO SOMERSET COUNTY ENGINEERING IN THE AMOUNT OF \$353,777.13 FOR MILLING, PAVING AND INSPECTION SERVICES AS PART OF THE 2020 ROAD IMPROVEMENT PROGRAM INCLUDING DAVENPORT STREET AND MERCER STREET
- 22-0307-080 APPROVING NEW JERSEY FIREMEN'S ASSOCIATION APPLICATION FOR ELIZABETH ISELIN
- 22-0307-081 APPROVING A SUPPLEMENTAL AGREEMENT TO THE AMENDED AND RESTATED REDEVELOPMENT AGREEMENT WITH HATHAWAY SOLAR, LLC FOR PROPERTY KNOWN AS TAX BLOCK 124, PORTIONS OF LOTS 1 & 21 IN THE LANDFILL REDEVELOPMENT AREA FOR REMEDIATION OF THE LANDFILL TO FACILITATE THE DEVELOPMENT OF A SOLAR PROJECT

- 22-0307-082 AUTHORIZING PAYMENT TO RAPID RECOVERY SERVICES, LLC IN THE AMOUNT OF \$177,624.80 FOR EMERGENCY SERVICES PROVIDED AT 32 5TH STREET PURSUANT TO N.J.S.A. 40A:11-6 ET SEQ
- 22-0307-083 AUTHORIZING PAYMENT TO DESAPIO PROPERTIES IN ACCORDANCE WITH THE AMENDED AND RESTATED DECLARATION OF EASEMENTS AND COVENANTS FOR VERTANS MEMORIAL PARKING GARAGE DATED AUGUST 23, 2019
- 22-0307-084 AUTHORIZING THE APPOINTMENT OF SPECIAL COUNSEL – RYAN SCERBO OF DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP IN CONNECTION WITH THE BOROUGH ANALYSIS OF LONG-TERM OPTIONS FOR THE OWNERSHIP AND OPERATION OF THE BOROUGH’S WASTEWATER COLLECTION SYSTEM
- 22-0307-085 AUTHORIZING CHANGES TO THE OFFICE OF EMERGENCY MANAGEMENT SUPPORT TEAM

13. BILLS AND VOUCHERS

14. ADJOURNMENT

KEVIN SLUKA, MUNICIPAL CLERK

Ordinances for Introduction

ORDINANCE #2666-22-0307

ORDINANCE TO EXCEED THE CY 2022 MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)

WHEREAS, the Local Government Cap law, NJSA 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15 provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Borough Council of the Borough of Somerville, in the County of Somerset, New Jersey, finds it advisable and necessary to increase its CY 2022 budget by up to 3.5 % over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Mayor and Borough Council hereby determines that a 3.5 % increase in the budget for said year, amounting to \$154,169 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the Mayor and Borough Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to the final appropriation in either of the next two succeeding years:

NOW THEREFORE BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Somerville, in the County of Somerset, New Jersey, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2022 budget year, the final appropriations of the Borough of Somerville shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$539,592 and that the CY 2022 municipal budget for the Borough of Somerville be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

This Ordinance shall take effect after publication in accordance with applicable law.

ORDINANCE #2667-22-0307

AMENDING CHAPTER 147 SECTION 5 ENTITLED “PERMITTED NUMBER OF STICKERS; STICKERS, BULK ITEMS” SPECIFICALLY AMENDING SECTION (B) AMENDING THE COSTS FOR STICKERS TO FIVE DOLLARS (\$5) AND SPECIFICALLY ALLOWING BULK ITEMS TO BE PART OF THE SANITATION STICKER PROGRAM

Amending Chapter 147 Section 5 (B) to read as follows:

~~B. The initial price for a sticker for a garbage bag shall be three dollars (\$3). The price shall be amended from time to time by Mayor and Council.~~ The fee for each sticker is five dollars (\$5) per household trash per each additional garbage bag Household bulk items may be disposed of under the Sanitation Sticker Program only if the item is allowed under the local solid waste program. The number of stickers required for each bulk item is identified at the Municipal Clerk’s Office. The stickers shall be paid in advance of pickup. Bulk items that do not have the appropriate number of stickers shall not be picked up and shall be subject to local code enforcement rules.

Bulk items that have the appropriate number of stickers shall be placed at curbside with the regular household waste in accordance with policy. The effective date shall be July 1, 2022.

ORDINANCE #2668-22-0307

**AMENDING ORDINANCE #2515-17-0221 CHAPTER 45, ALCOHOLIC BEVERAGES,
ARTICLE 1, LICENSING; REGULATIONS SECTION 7;
FEES SUBSECTION A, PARAGRAPHS 1-6**

BE IT ORDAINED, by the Mayor and Council of the Borough of Somerville, County of Somerset, State of New Jersey amend Chapter 45; Alcoholic Beverages, Section 7 Fees of the Borough Code as codified, be amended in the following manner:

REPLACE: Section 7, Sub section A, Paragraphs 1, 2, 3 & 4 and add paragraphs 5 & 6 to read as follows:

- A. The licenses to be issued in the Borough pursuant to the provisions of the Article and the fees for such licenses which shall be paid in advance upon presentation of the application for a license are as follows:
- 1) Plenary Retail Consumption License year commencing July 1, 2022 Two thousand forty dollars (\$2,040.00).
 - 2) Plenary Retail Distribution year commencing July 1, 2022 One thousand seven hundred fifty dollars (\$1,750)
 - 3) Club License year commencing on July 1, 2022 Two hundred dollars (\$200).
 - 4) Special one (1) day social affairs license sixty dollars (\$60)
 - 5) Catering Permit for one day sixty dollars (\$60) per day
 - 6) Extension of Premise Permit one day forty dollars (\$40) per day.

BE IT FURTHER ORDAINED, as follows:

- 1) That all ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.
- 2) This ordinance shall effect upon final publication and adoption in the manner provided by law.

ORDINANCE #2669-22-0307

**APPROVING AN 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. The Borough and Redeveloper have agreed to amend the Build Lease as follows:

- a) Exhibit E, Rent Schedule to modify the annual rent payments by the Borough; and
- b) Section 32 Tenant’s Termination Options to include a make whole provision that would permit the Borough to payoff the Build Lease at any time during the Term; and
- c) New provision whereby the Redeveloper would split any savings realized from the construction of the Project with the Borough 50/50 with the Borough being able to utilize the savings as a credit towards rent or a lump sum payment.

SECTION 11. The Mayor and Borough Clerk are authorized to execute any and all documents necessary for the amend the Build To Suit Lease for the Property, in a form substantially consistent with the form of the amended agreement attached hereto, subject to the review and approval of such documents by the Borough’s legal counsel.

SECTION 12. This ordinance shall take effect upon final passage and publication as required by law.

ORDINANCE #2661-22-0118

AUTHORIZING AND ENCOURAGING ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT(EVSE) & MAKE-READY PARKING SPACES

[Note: Pursuant to P.L. 2021, c.171, all sections of this model ordinance become effective in each municipality upon its publication on the Department of Community Affairs' Internet website. Municipalities may make changes to the reasonable standards in the model ordinance as noted below through the normal ordinance amendment process. However, municipalities may not make changes to the legislatively mandated requirements in Sections C., D., and E.]

This Ordinance sets forth procedures for the installation of Electric Vehicle Supply/Service Equipment (EVSE) and Make-Ready parking spaces and establishes associated regulations and other standards within the Borough of Somerville of Somerset County.

WHEREAS, supporting the transition to electric vehicles contributes to Borough of Somerville's commitment to sustainability and is in the best interest of public welfare; and

WHEREAS, installation of EVSE and Make-Ready parking spaces encourages electric vehicle adoption; and

WHEREAS, the Borough of Somerville encourages increased installation of EVSE and Make Ready parking spaces; and

WHEREAS, adoption of this ordinance supports the State of New Jersey's goals to reduce air pollutants and greenhouse gas emissions from the transportation sector as outlined and supported by various programs related to NJ's 2019 Energy Master Plan, Global Warming Response Act (P.L.2007, c.112 (C.26:2C-37 et al.)), and EV Law (P.L. 2019, c. 362); and

WHEREAS, P.L. 2021, c.171, which Governor Murphy signed into law on July 9, 2021, requires EVSE and Make-Ready parking spaces be designated as a permitted accessory use in all zoning or use districts and establishes associated installation and parking requirements; and

WHEREAS, adoption of this ordinance will support the Master Plan of *Borough of Somerville* adopted in concurrence with P.L. 1975 c. 291, s. 1 eff. Aug. 1, 1976, and is consistent with goals of the Master Plan; and

WHEREAS, the Borough of Somerville encourages greater ownership and use of electric vehicles, thus the Borough of Somerville is amending the Borough of Somerville's Land use Ordinance to establish standards and regulations for the safe and efficient installation of EVSE and Make-Ready parking spaces at appropriate locations.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey as follows:

FIRST: ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT

A. Purpose

The purpose of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:

1. Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
2. Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
3. Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
4. Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

B. Definitions

Certificate of occupancy: The certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act and the regulations. See "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and regulations adopted pursuant thereto.

Charging Level!: The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

1. Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
2. Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
3. Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

Electric vehicle: Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

Electric Vehicle Supply/Service Equipment or (EVSE): The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for

the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

Make-Ready Parking Space: means the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-Ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).

Private EVSE: EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).

Publicly-accessible EVSE: EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).

C. Approvals and Permits

1. An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
2. EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in 1. above.
3. All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
4. The Zoning Officer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of Borough of Somerville's land use regulations.
5. An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:
 - a. the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or

- subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
 - b. all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
 - c. the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
6. An application pursuant to Section 5. above shall be deemed complete if:
- a. the application, including the permit fee and all necessary documentation, is determined to be complete,
 - b. a notice of incompleteness is not provided within 20 days after the filing of the application, or
 - c. a one-time written correction notice is not issued by the Zoning Officer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.
7. EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
8. A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

D. Requirements for New Installation of EVSE and Make-Ready Parking Spaces

{Note: Section D of the model ordinance is mandatory and may not be altered.}

1. As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
- a. prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
 - b. within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
 - c. within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.

- d. Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
 - e. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
2. As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in 1. above shall:
- a. Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 - b. Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - c. Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
 - d. Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
 - e. Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
 - f. In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
 - g. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
 - f. Notwithstanding the provisions of Section E above, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

E. Minimum Parking Requirements

{Note: Section E of the model ordinance is mandatory and may not be altered. }

- 1. All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to the Borough's Land Use Ordinance.
- 2. A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.
- 3. All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.

4. Additional installation of EVSE and Make-Ready parking spaces above what is required in Section D. above may be encouraged, but shall not be required in development projects.

F. Reasonable Standards for All New EVSE and Make-Ready Parking Spaces

1. Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
2. Installation:
 - a. Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
 - b. Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
 - c. To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
 - d. Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
3. EVSE Parking:
 - a. Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE. **{Note: The use of time limits is optional and shall be determined by the owner.}**
 - b. Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
 - c. Public Parking. Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be is subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of this Municipal Code. Signage indicating the penalties for violations shall comply with Section 5. below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.

- d. Private Parking. The use of EVSE shall be monitored by the property owner or designee.

4. Safety

- a. Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Section 5. below.
- b. Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with Borough of Somerville's ordinances and regulations.
- c. Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.
- d. EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
- e. Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- f. Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- g. Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, Borough of Somerville shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

5. Signs

- a. Publicly-accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at

an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.

- b. All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
- c. Wayfinding or directional signs, if necessary, shall be permitting at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with b. above.
- d. In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:
 - 1) Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
 - 2) Usage fees and parking fees, if applicable; and
 - 3) Contact information (telephone number) for reporting when the equipment is not operating or other problems.

6. Usage Fees

- a. For publicly-accessible municipal EVSE **{Optional}**: In addition to any parking fees, the fee to use parking spaces within the municipality identified as EVSE spaces shall be identified in the parking ordinance.
- b. This fee may be amended by a resolution adopted by the governing body.
- c. Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

SECOND: SEVERABILITY

If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

THIRD: REPEAL OF PRIOR ORDINANCES

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

FOURTH: EFFECTIVE DATE

This ordinance shall take effect after final passage and publication as provided by law.

ORDINANCE #2662-22-0207

**AMENDING CHAPTER 80 ENTITLED FIRE PREVENTION;
LIFE SAFETY SECTION 7 ENTITLED “ADDITIONAL REQUIRED INSPECTION AND
FEES” SUBSECTION B(9) ENTITLED CLASS IV. AMENDING THE FEE SCHEDULE FOR
MULTIPLE DWELLINGS INCLUDING PARKING DECK/PARKING STRUCTURES**

WHEREAS, the Borough of Somerville performs fire inspections for apartment buildings and parking structures; and

WHEREAS, Chapter 80, Section 7, entitled “Additional required inspection and fees” subsection B(9) shall be amended to read as follows:

- (9) Class IX. Multiple dwellings and commercial and industrial buildings, businesses, structures or premises with common areas accessible to the tenants or the public shall be ~~\$100 per building.~~

Apartment buildings 100 or less dwelling units:

- \$100.00 per floor.
- \$100.00 Basement
- \$100.00 per parking deck level

Apartment buildings with more than 100 dwelling units

- \$150.00 per floor
- \$150.00 Basement
- \$100.00 per parking deck level

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

ORDINANCE #2663-22-0207

**AMENDING CHAPTER 166-44 SCHEDULE III ENTITLED “NO STOPPING
OR STANDING” TO INCLUDE SOUTH BRIDGE STREET BETWEEN VETERANS
MEMORIAL DRIVE AND SECOND STREET**

WHEREAS, Chapter 166-44 Schedule III entitled “” No stopping and Standing shall be amended to include South Bridge Street between Veterans Memorial Drive and Second Street:

§ 166-44 Schedule III: No Stopping or Standing.

In accordance with the provisions of § 166-8, no person shall stop or stand a vehicle between the times specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours	Location
South Bridge Street	East	All	From Veterans Memorial Drive to Second Street

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

ORDINANCE #2664-22-0207

**APPROVING AN AMENDMENT TO THE FINANCIAL AGREEMENT
AND AUTHORIZING EXECUTION OF AN AMENDMENT AND RESTATED FINANCIAL
AGREEMENT BY AND BETWEEN THE BOROUGH OF SOMERVILLE AND A & A
SOMERVILLE URBAN RENEWAL, LLC PURSUANT TO N.J.S.A. 40A:20-1 ET SEQ. FOR
PROPERTY LOCATED ON 40 HAYNES STREET, ALSO KNOWN AS LOTS 3, 13 AND 14
IN BLOCK 50, AS SHOWN ON THE OFFICIAL TAX MAP OF THE BOROUGH OF
SOMERVILLE, LOCATED IN THE KIRBY AVENUE REDEVELOPMENT AREA**

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

Section 1. Pursuant to and in accordance with the provisions of the Long-Term Tax Exemption Law, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State, and the acts amendatory thereof and supplement thereto (the “Long Term Tax Exemption Law”, as codified in N.J.S.A. 40A:20-1 et seq.), the Borough is authorized to provide for tax exemptions within a redevelopment area and for payments in lieu of taxes.

Section 2. A & A Somerville Urban Renewal, LLC (the “Redeveloper”) owns Block 50, Lots 3, 13 & 14 (the “Property”) on which it has constructed a 179-unit residential rental project in two 4-story buildings with 329 parking spaces (the “Project”).

Section 3. On January 25, 2019, the Borough and the Redeveloper entered into a financial agreement for the payment of annual service charges for a term of 25 years based on a percentage of Annual Gross Revenues (“AGR”) from the Project pursuant to the Long-Term Tax Exemption Law (the “Financial Agreement”) starting at 10% AGR for years 1-5; 12% AGR for years 6-14; and 15% AGR for years 15-25.

Section 4. In June 2020, just prior to completion of the remaining 4-story residential building in the Project, a fire destroyed the building resulting in the need for its complete demolition and reconstruction, which the Redeveloper is currently undertaking on the Property.

Section 5. As a result of the fire and the need to reconstruct the remaining building in the Project, the completion date for the Project has been setback 18-24 months and the Redeveloper requested that the Borough consider postponing or delaying the effective date of the Financial Agreement as to the remaining building.

Section 6. In order to assist the Redeveloper as a result of the fire and resulting delays in completion of the Project, the Redeveloper requested an amendment to the Financial Agreement for the percentage of Annual Gross Revenues (“AGR”) from the Project pursuant to the Long-Term Tax Exemption Law as follows: 10% AGR for years 1-5 shall be extended for two (2) years; 12% AGR for years 6-14 shall be reduced one (1) year; and 15% AGR for years 15-25 shall be increased for one (1) year and this request was approved by the Borough by adoption of Ordinance No. 2633 on April 5, 2021.

Section 7. The Redeveloper has requested the Borough extend the term of the financial agreement an additional two (2) years to mitigate the additional costs of reconstruction of the Project after the fire and this amendment to the term of the financial agreement shall be increased by two (2) years for a total duration of twenty-seven (27) years.

Section 8. The Financial Agreement, specifically Section 4.2 shall be amended to provide for the percentage of Annual Gross Revenues (“AGR”) from the Project as follows: 10% AGR for years 1-7; 12% AGR for years 6-13; and 15% AGR for years 14-27.

Section 9. The Mayor and Borough Clerk are hereby authorized to execute any and all documents necessary including the Amended and Restated Financial Agreement, in a form subject to final review and approval by the Borough’s legal counsel.

Section 10. This ordinance shall take effect upon final passage and publication as required by law.

The resolutions listed below are in draft form and may be amended prior or during the meeting

RESOLUTION 22-0307-068

URGING THE SWIFT PASSAGE OF S-330 WHICH RESTORES ENERGY TAX RECEIPTS

WHEREAS, taxes on gas and electric utilities were originally collected by the host municipalities to be used for local purposes and to compensate the public for the use of their rights of way; and

WHEREAS, when the State made itself the collection agent for these taxes, it promised to dedicate the proceeds to municipal property tax relief; since, just as municipalities collect property taxes for the benefit of school districts, counties, and other entities, the State is supposed to collect Energy Taxes for the benefit of municipal governments; and

WHEREAS, for years, though, State budget makers have diverted funding from Energy Taxes to fund State programs; and instead of being spent on local programs and services and used to offset property taxes, the money has been spent as successive Legislatures and Administrations have seen fit; and

WHEREAS, the diversion of dedicated energy tax receipts to the State’s General Fund further jeopardizes this critical property tax relief funding in future years; and

WHEREAS, by reducing Consolidated Municipal Property Tax Relief Act (CMPTRA), which is also comprised of revenues that should be returned to municipalities, State Budget makers have been able to continue collecting Energy Taxes, while keeping additional revenue that should have been returned to provide property tax relief; and

WHEREAS, the cumulative impact of years of underfunding has left many municipalities with serious needs and burdensome property taxes; and

WHEREAS, local elected officials are in the best position to decide the best use of these resources, which were always intended to fund local programs and services; and

WHEREAS, Senator Singleton and Senate President Scutari have introduced legislation (S-330) that will restore, over a five-year period, Energy Tax Receipts to municipalities.

NOW, THEREFORE, BE IT RESOLVED, that the governing body of the Borough of Somerville in the County of Somerset urges the Legislature to swiftly pass this legislation and Governor Murphy sign the legislation prior to passage of the FY2023 State budget.

BE IT FURTHER RESOLVED that a copy of this Resolution is forwarded to Senator Zwicker, Assemblyman Freiman, Assemblywoman Jaffer, Senate President Scutari, Assembly Speaker Coughlin, Governor Murphy, and the League of Municipalities.

RESOLUTION 22-0307-069

APPROVING THE SUBMISSION OF THE 2022 AARP COMMUNITY CHALLENGE GRANT FOR FUNDING FOR THE SOMERVILLE GREENWAY REVITALIZATION

WHEREAS, the Borough's Recreation Committee desires to make application for funding under the 2022 AARP Community Challenge Grant Program; and

WHEREAS, the request for funding will be for Somerville Greenway Revitalization project; and

WHEREAS, the application must be submitted on-line prior to March 22, 2022 and the Somerville Recreation Committee is authorized to submit the application and furthermore, the Recreation Director, Clerk-Administrator are authorized to execute the grant submission if required.

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey hereby approves the Recreation Committee to submit the 2022 AARP Community Challenge Grant for funding for the Somerville Greenway Revitalization.

RESOLUTION 22-0307-070

DESIGNATING SOMERVILLE BOROUGH AS A STIGMA-FREE COMMUNITY

WHEREAS, the Somerset County Board of Chosen Freeholders, along with the Somerset County Department of Human Services, supports the designation of Stigma-Free Communities in every municipality; and

WHEREAS, at their September 26, 2017 meeting, the Somerset County Board of Chosen Freeholders unanimously passed a resolution supporting the designation of Somerset County as a Stigma-Free Community; and

WHEREAS, Somerset County recognizes that one in five Americans has experienced mental health and substance use disorders, in a given year according to the National Institute of Mental Health; and

WHEREAS, mental health problems are more common than cancer and heart disease combined, affecting children and adults, including more than half of our Iraq and Afghanistan Veterans treated at Veteran’s Administration hospitals; and

WHEREAS, given the serious nature of this public health problem, we must continue to reach the millions who need help; and

WHEREAS, the stigma associated these conditions is identified as the primary reason individuals fail to seek the help they need to recover from the disease; and

WHEREAS, Stigma-Free Communities aim to inspire public interest and open dialogues about stigma, raise awareness of mental health and substance use disorders and create a culture wherein residents feel supported by their community and neighbors and feel free to seek treatment for the disease without fear of stigma; and

WHEREAS, promoting awareness that there can be no “health” without mental health will break down barriers and encourage residents of all ages to be mindful of their mental health and ask for help when needed; and

WHEREAS, local resources are available to treat mental health and substance use so no one resident needs to suffer alone or feel hopeless; and

WHEREAS, establishing Stigma-Free Communities will raise awareness of resources and encourage residents to engage in care as soon as the need is identified so recovery can begin, hope is inspired and tragedies are avoided.

NOW THEREFORE BE IT RESOLVED that Borough of Somerville recognizes the community needs and supports the efforts of the County of Somerset in designating Borough of Somerville as a Stigma-Free Community.

RESOLUTION 22-0307-071

CANCELLING LANDLORD REGISTRATION FEE CREDITS

WHEREAS, the following properties have an open Landlord Registration fee balance of less than \$ 1.00; and

WHEREAS, the Collector has requested that these Landlord Registration fee balances be cancelled of record.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Somerville, that the following Landlord Registration Fee credits shown below be cancelled of record and that the Collector be and is hereby authorized to adjust her records accordingly:

<u>Block/ Lot</u>	<u>Year</u>	<u>Amount</u>	<u>Location</u>	<u>Owner</u>
3 9	2021	\$.47	13 S Richards	H Ward
9 2	2021	\$.05	465-467 E Main	S Shah

39	3	2021	\$.32-	283 E Main	SLK Global
41	21	2021	\$.90	251 E High	A Barenbaum
124.01	7	2021	\$.58	21-23 Somerset	M Sutipayakul

RESOLUTION 22-0307-072

AUTHORIZING PAYMENT OF THE \$500.00 APPLICATION FEE FOR A GRANT FROM THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND TO THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (NJ EDA) FOR THE REMEDIATION OF PORTIONS OF BLOCK 124, LOTS 1 AND 21 WITHIN THE FORMER MUNICIPAL LANDFILL

WHEREAS, the Borough of Somerville (the “Borough”) is committed to redevelop and remediate a portion of the Landfill BDA located on Route 206 North in the Borough of Somerville (the “Property”) for the purpose of creating a solar energy generating facility; and

WHEREAS, the Borough of Somerville wishes to undertake an environmental remediation for this site; and

WHEREAS, the Borough of Somerville has applied to the NJ Department of Environmental Protection (NJ DEP) for a Remediation grant in the amount of \$5,000,000 from the Hazardous Discharge Site Remediation Fund (HDSRF) representing a portion of the 75% of the total eligible HDSRF grant award(s) of \$8,655,605 to undertake this remediation; and

WHEREAS, the NJ DEP has determined the application is eligible for a grant from the fund and has advised the NJ EDA of this determination; and

WHEREAS, THE NJ EDA has assigned a grant number “Product 301883” to this award from the Hazardous Discharge Site Remediation Fund and requested the Borough pay a \$500.00 application fee to the NJ EDA.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Somerville that the above referenced grant application has been approved, and hereby authorize the Borough Administrator to issue a check to the NJ EDA in the amount of \$500.00 for the grant application fee.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the New Jersey Economic Development Authority with the application fee check.

RESOLUTION 22-0307-073

SUPPORTING AN APPLICATION FOR AN HDSRF GRANT FOR THE REMEDIATION OF PORTION OF THE LANDFILL BDA REDEVELOPMENT AREA, LOCATED ON ROUTE 206 NORTH IN THE BOROUGH OF SOMERVILLE

WHEREAS, the Borough Council of the Borough of Somerville (the “Borough”) is committed to the redevelopment and remediation of a portion of the Landfill BDA located on Route 206 North in the Borough of Somerville (the “Property”) for the purpose of creating a solar energy generating facility; and

WHEREAS, the Borough has determined that there has been a discharge of hazardous substances or a hazardous waste on the Property; and

WHEREAS, Borough intends to apply for a grant from the NJDEP Hazardous Discharge Site Remediation Fund (HDSRF) to fund the continuation of remediation of certain portions comprising approximately 29.5 acres within the Landfill BDA/Redevelopment Area known as Block 124, Lots 17.01 and 21, as identified in the draft Landfill Closure and Post Closure Care Plan prepared by Geosyntec Consultants for Hathaway Solar LLC, dated July 2021 to be submitted to the NJ DEP for approval; and

WHEREAS, the draft Landfill Closure and Post Closure Care Plan refers to the Remedial Investigation Report/Remedial Action Workplan, dated June 23, 2011 (RIR/RAW), which was approved by the NJ DEP September 21, 2011; and

WHEREAS, the closure of this portion of the landfill will be through the installation of a “cap and cushion” layer (cap) as specified in N.J.A.C. 7:26-2A9 (e)(4)(ii), consisting of a geotextile cushion, polyethylene geomembrane and synthetic turf to isolate the underlying fill material; and

WHEREAS, this remediation is estimated to cost \$11,540,807 which is intended to be funded through a NJ DEP Hazardous Discharge Remediation Fund (HDSRF) Grant for 75% \$8,655,605 of the amount and the developer and Borough will contribute the remaining balance of 25% \$2,885,202.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Somerville that it hereby authorizes the submission of an application to the NJDEP Hazardous Discharge Site Remediation Fund (HDSRF) to fund the continuation of remediation of certain portions of the Landfill BDA/Redevelopment Area.

BE IT FURTHER RESOLVED that the Mayor and Administrator are authorized to sign a HDSRF application and associated documents for the remediation of this portion of the landfill in the amount of \$8,655,605 to be submitted to the NJDEP.

RESOLUTION 22-0307-074

AWARDING A CONTRACT TO DESANTIS CONSTRUCTION, INC. FOR PARKING LOT 8 IMPROVEMENTS IN THE AMOUNT OF \$149,379.28

WHEREAS, the Borough of Somerville scheduled a public bid for February 23, 2022 for Parking Lot 8 Improvements; and

WHEREAS, Kevin Sluka on behalf of the Borough of Somerville received (11) eleven bids on February 213, 2022 and publicly read them aloud; and

WHEREAS, DeSantis Construction, Inc., PO Box 6030, Somerset, NJ 08875 was the lowest responsible bidder.

THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey hereby awards a contract to DeSantis Construction, Inc., PO Box 6030, Somerset, NJ 08875 in the amount of \$149,379.28.

RESOLUTION 22-0307-075

**AUTHORIZING REFUND ON REMAINING ESCROW BALANCE
ON APPLICATION #2021-01Z TO FRANK PULICE IN THE AMOUNT OF \$1,730.00 FOR
ADDRESS KNOWN AS 184 EAST SPRING STREET
BLOCK 82 LOT 23**

WHEREAS, Frank Pulice, had an application before the Land Use Board; and

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey hereby approves a refund to Frank Pulice in the amount of \$1,730.00.

RESOLUTION 22-0307-076

**AUTHORIZING REFUND ON REMAINING ESCROW BALANCE
ON APPLICATION #2021-01Z TO DAN RADZIEWICZ IN THE AMOUNT
OF \$320.00 FOR ADDRESS KNOWN AS 25-37 NORTH MIDDAGH STREET
BLOCK 127 LOT 9**

WHEREAS, Dan Radziewicz, had an application before the Land Use Board; and

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey hereby approves a refund to Dan Radziewicz in the amount of \$320.00.

RESOLUTION 22-0307-077

**AUTHORIZING SUBMISSION OF A NEW JERSEY HISTORIC TRUST FUND GRANT
APPLICATION FOR THE DANIEL ROBERT HOUSE RESTORATION**

WHEREAS, the governing body of the Borough of Somerville desires to further historic preservation through a grant from the New Jersey Historic Preservation Trust Fund for the Daniel Robert House Restoration; and

WHEREAS, the Borough Council has determined it is appropriate to authorize the Mayor and Clerk to submit a Grant application to the New Jersey Historic Preservation Trust Fund Grant Program in connection with renovation of the Daniel Robert House.

NOW THEREFORE BE IT RESOLVED, that the Mayor and Borough Clerk are authorized to sign the application, and that they are also authorized to sign the grant agreement and any other documents necessary in connection therewith.

RESOLUTION 22-0307-078

APPROVING NEW JERSEY FIREMEN'S ASSOCIATION APPLICATION FOR TOMASZ RODRIGUES

BE IT RESOLVED, that the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey hereby approves New Jersey Firemen's Association Application for Tomasz Rodrigues.

RESOLUTION 22-0307-079

APPROVING CHANGE ORDER #1 TO THE CONTRACT WITH CROSSROADS PAVING, FOR THE NORTH MIDDAGH STREET ROADWAY IMPROVEMENTS (WEST END AVENUE TO ALTAMONT PLACE) PROJECT FROM \$317,584.75 TO \$317,138.50 AND CLOSING OUT THE PROJECT

WHEREAS, the Borough of Somerville accepted bids for the North Middaugh Street Roadway Improvements (West End Avenue To Altamont Place) project on December 16, 2020 as publicly advertised; and

WHEREAS, the Borough of Somerville awarded the project to Crossroads Paving, 386 South Street, Suite 169, Newark, NJ 07105 for the base bid amount of \$317,584.75; and

WHEREAS, the contract has a change order which was a credit against the bid in the amount of \$446.25 thereby reducing the contract to \$317,138.50.

Change Order #	Description	Original Contract	Amount of change	New Contract Amount
1	Adjustment in quantities	\$317,584.75	(\$446.25)	\$317,138.50

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Somerville hereby approves Change Order #1 to a contract to Crossroads Paving, 386 South Street, Suite 169, Newark, NJ 07105 from \$317,584.75 to \$317,138.50, a reduction of \$446.25, for the North Middaugh Street Roadway Improvements (West End Avenue To Altamont Place) project and approves the closeout of this project.

RESOLUTION 22-0307-080

APPROVING NEW JERSEY FIREMEN'S ASSOCIATION APPLICATION FOR ELIZABETH ISELIN

BE IT RESOLVED, that the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey hereby approves New Jersey Firemen's Association Application for Elizabeth Iselin.

RESOLUTION 22-0307-081

APPROVING A SUPPLEMENTAL AGREEMENT TO THE AMENDED AND RESTATED REDEVELOPMENT AGREEMENT WITH HATHAWAY SOLAR, LLC FOR PROPERTY KNOWN AS TAX BLOCK 124, PORTIONS OF LOTS 1 & 21 IN THE LANDFILL REDEVELOPMENT AREA FOR REMEDIATION OF THE LANDFILL TO FACILITATE THE DEVELOPMENT OF A SOLAR PROJECT

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, *et seq.*, as amended and supplemented (“**Redevelopment Law**”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, on December 8, 1997, the Somerville Borough Council, by resolution, designated an area in need of redevelopment, now known as the Borough Landfill Redevelopment Area (“**Redevelopment Area**”); and

WHEREAS, on March 16, 1998, the Borough Council, by ordinance, adopted a redevelopment plan for the Redevelopment Area entitled the Borough Landfill Redevelopment Plan, which Redevelopment Plan was amended by the Borough on September 4, 2007, and the amended Redevelopment Plan is entitled “Redevelopment Plan for the Station Area and Landfill Redevelopment Area”, which was prepared by Phillips Preiss Shapiro Associates, Inc., dated September, 2007 (“**Redevelopment Plan**”), which Redevelopment Plan has been amended from time to time; and

WHEREAS, Tax Block 124, portions of Lots 1, 17.01, 20, 21 & 22 (the “**Property**”) are located in the Redevelopment Area; and

WHEREAS, the Property is owned by the Borough, is currently vacant land and was used as a former municipal landfill (the “**Landfill**”), is approximately 25 acres and requires remediation and closure in accordance with applicable law; and

WHEREAS, the Redevelopment Law, N.J.S.A. 40A:12A-8(f), authorizes the Borough to arrange or contract with a redeveloper for the planning, construction or undertaking of any project or redevelopment work in an area designated as an area in need of redevelopment; and

WHEREAS, the Borough has determined that it would be appropriate to redevelop the Property for solar energy use which would potentially result in revenues to the Borough through a lease arrangement with the solar provider as well as offer the potential for a community solar project that could lower energy costs for Borough residents and be consistent with the State’s energy master plans; and

WHEREAS, the Property is a landfill and is subject to closure and post-closure requirements that must be approved by the New Jersey Department of Environmental Protection; and

WHEREAS, on May 26, 2021, the Borough entered into a redevelopment agreement (the “**Redevelopment Agreement**”) with the Redeveloper; and

WHEREAS, on June 9, 2021, the Borough and the Redeveloper executed a lease for the Property (the “Lease”) in accordance with the Redevelopment Law, whereby the Borough leased the Property to the Redeveloper for the purposes of redevelopment in accordance with the Redevelopment Agreement and the Redevelopment Plans; and

WHEREAS, on or about January 10, 2022, the Borough entered into an amended and restated redevelopment agreement with the Redeveloper (the “Amended Redevelopment Agreement”); and

WHEREAS, the Lease has been amended, specifically, Exhibit G, Annual Lease Payment Calculation and Payment Procedure to address lease payment reductions based on Redeveloper contributions towards the remediation of the Property pursuant to the applicable terms and conditions in the Amended Redevelopment Agreement, the Lease and this Remediation Agreement; and

WHEREAS, the Borough has agreed to provide Redeveloper, at no additional cost through a separate easement agreement (the “**Easement Agreement**”), with access to and use of certain areas of the Property outside of the Lease Area in order for Redeveloper to install, interconnect, and maintain the solar project on the Lease Area (the “**Solar Project**”); and

WHEREAS, in order for the Redeveloper to install, interconnect and maintain the Solar Project, the Landfill must be remediated in accordance with applicable State law, rules and regulations; and

WHEREAS, on December 22, 2021, the New Jersey Department of Environmental Protection issued a Closure and Post-Closure Plan Approval for the Green Seam portion of the Borough Landfill (“Remediation Approval”), a copy of which Remediation Approval along with applicable conditions is attached hereto and made part of this Remediation Agreement; and

WHEREAS, the Borough and Redeveloper have agreed to the remediation of the Landfill in accordance with the Remediation Approval which will be undertaken by the Redeveloper pursuant to certain terms and conditions with respect to the construction of the improvements and the payment of certain costs in connection therewith as set forth in the Supplemental Agreement to the Amended and Restated Redevelopment Agreement attached hereto.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Somerville that it hereby approves and authorizes the execution of the Supplemental Agreement to the Amended and Restated Redevelopment Agreement between the Borough and Hathaway Solar, LLC c/o Conti Solar, 2045 Lincoln Highway, Edison, New Jersey 08817, for the development of Tax Block 124, portions of Lots 1 & 21 located in the Landfill Redevelopment Area the remediation of the landfill for a solar project.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute any and all documents, including the Supplemental Agreement to the Amended and Restated Redevelopment Agreement attached hereto in substantially similar form, to effectuate the completion and implementation of this project, subject to final review by redevelopment counsel as to legal form and content.

RESOLUTION 22-0307-082

AUTHORIZING PAYMENT TO RAPID RECOVERY SERVICES, LLC IN THE AMOUNT OF \$177,624.80 FOR EMERGENCY SERVICES PROVIDED AT 32 5TH STREET PURSUANT TO N.J.S.A. 40A:11-6 ET SEQ.

WHEREAS, Tropical Storm Ida impacted New Jersey on Wednesday, September 1, 2021 occurred bringing severe weather conditions resulting in 13' thirteen feet of water inside the Department of Public Works Building located at 32 5th Street; and

WHEREAS, a State of Emergency of was declared assigned by the OEM Coordinator and Mayor; and

WHEREAS, pursuant to N.J.S.A. 40A:11-6 et seq., under the Local Public Contract Law, any contract may be negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the contract [price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires immediate delivery of good and services; and

WHEREAS, Rapid Recovery Services, 375 North Street Unit Q, Teterboro, New Jersey 07608 was provided as a recommended vendor by the Borough's Risk Manager to assist in the immediate remediation and response; and.

WHEREAS, Rapid Recovery Services provided emergency services in the amount of \$177,624.80 at 32 5th Street, Public Works facility, Somerville New Jersey

NOW THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey authorizes payment in the amount of \$177,624.80 to Rapid Recovery Services, 375 North Street Unit Q, Teterboro, New Jersey 07608 pursuant to N.J.S.A. 40A:11-6 et seq

RESOLUTION 22-0307-083

AUTHORIZING PAYMENT TO DESAPIO PROPERTIES IN ACCORDANCE WITH THE AMENDED AND RESTATED DECLARATION OF EASEMENTS AND COVENANTS FOR VERTANS MEMORIAL PARKING GARAGE DATED AUGUST 23, 2019

WHEREAS, the Amended and Restated Declaration of Easements and Covenants for Veterans Memorial Parking Garage ("Amended Declaration") dated August 23, 2019 sets forth parking garage requirements that include maintenance, use and operations to be performed by parties that included Borough of Somerville, 46 East Main, LLC, Desapio Properties #seven, LLC, Desapio properties # ten, LLC, Warren Street Partners, LLC 75 Veterans Memorial Associates, LLC, Somerville Urban Renewal, LLC herein referred to as DeSapio properties; and

WHEREAS, the Amended Declaration in Article 5 identifies the cost sharing for operations and maintenance with specific detail; in Section 5.4.1 the method in which maintenance costs shall be presented to the Borough of Somerville for auditing and payment purposes; and

WHEREAS, DeSapio Properties has presented partial and sporadic invoices for various years for services that date back to 2011 for review; and

WHEREAS, after extensive review and compilation of bills the Borough of Somerville was able to adequately identify acceptable invoices in accordance with the Amended Declaration for 2019 for a total cost of \$54,835.42 of which in accordance with Article 5, the Borough is responsible for \$27,417.71 of operating costs for 2019; and

WHEREAS, the Amended Declaration identifies in Section 2.8 use of spaces after hours and further identifies in Section 3.5 the cost sharing for such use; and

WHEREAS, the Borough of Somerville has collected revenue from a 3rd party and Section 3.5 applies in which the Borough would be required to share the revenue in accordance with the terms outlined; and

WHEREAS, in 2019, the Borough of Somerville has collected revenue from a 3rd party in the amount of \$25,728 of which \$20,582.16 is due to DeSapio properties; and

WHEREAS, in an effort to make payments to DeSapio Properties, the Borough Council of the Borough of Somerville agrees to use the 2019 maintenance invoices that are applicable to the agreement and revenue sharing identified in the agreement for both 2020 and 2021 until such time in which the appropriate invoices are delivered; and

WHEREAS, it is the intent of the Borough of Somerville to audit the bills for 2019, 2020 and 2021 and make the appropriate adjustments in 2022, however for the purpose of making payment the Borough is making the following payments:

Year	O & M Estimate	Revenue Share	Total payment
2019	\$27,414.71	\$20,582.16	\$47,996.87
2020	\$27,414.71	\$20,582.16	\$47,996.87
2021	\$27,414.71	\$20,582.16	\$47,996.87
TOTAL	\$82,244.13	\$61,746.48	\$143,990.61

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey authorizes payment to DeSapio properties in the amount listed in the table above.

RESOLUTION 22-0307-084

**AUTHORIZING THE APPOINTMENT OF SPECIAL COUNSEL –
RYAN SCERBO OF DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP IN CONNECTION
WITH THE BOROUGH ANALYSIS OF LONG-TERM OPTIONS FOR THE OWNERSHIP
AND OPERATION OF THE BOROUGH’S WASTEWATER COLLECTION SYSTEM**

WHEREAS, the Borough of Somerville has a need for special legal counsel to assist with evaluating options available for the long-term operation and management of its water distribution system; and

WHEREAS, Ryan Scerbo of the DeCotiis, FitzPatrick, Cole & Giblin, LLP firm has extensive experience in connection with the such evaluations and implementation of sale and operational options; and

WHEREAS, it is contemplated that the temporary and permanent budgets will contain the necessary appropriations estimated to be reasonably required for each such professional service; and

WHEREAS, the professional named herein will be required to execute a contract for the services to be rendered which shall set forth the compensation for such services therein; and

WHEREAS, a Certification of availability of funds has been received from the Chief Financial Officer or that such funds will be encumbered by Purchase Order on an as-needed basis pursuant to the provisions of NJAC 5:30-5.4 et seq.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Somerville that the authorization for the following appointment be and is hereby made for the period of March 2022 to November 2023:

Ryan Scerbo of the firm DeCotiis, Fitzpatrick, Cole & Giblin, LLP –
Special Counsel

BE IT FURTHER RESOLVED, that this contract is being awarded as a non-fair and open contract, pursuant to the provisions of NJSA 19:44A-20.5.

BE IT FURTHER RESOLVED, that the Business Disclosure Entity Certification and the determination of value be placed on file with this Resolution.

BE IT FURTHER RESOLVED, that the compensation for the aforesaid position shall initially be \$15,000, for a total not to exceed \$50,000.00, absent further authorization from the Borough of Somerville, which shall be executed by the professional named herein.

BE IT FURTHER RESOLVED, that the aforesaid appointment was made without competitive bidding under the provisions of NJSA 40A:11-5(1)(a) which excepts from competitive bidding Professional services rendered by persons authorized by law to practice a recognized profession and whose practice is regulated by law.

BE IT FURTHER RESOLVED, that the appropriate Borough Officials be and they are hereby authorized to execute a contract with the professional named herein for the services to be rendered.

BE IT FURTHER RESOLVED, that the compensation to be paid for the professional named herein shall not exceed the budget appropriation for such services unless properly ordained in accordance with law.

BE IT FURTHER RESOLVED, that the contract shall contain a clause of “not to exceed \$50,000.00 without proper written approval of the Governing Body.

BE IT FURTHER RESOLVED, that a copy of this resolution be filed with the Borough Clerk and made available for inspection and that a brief notice of the passage thereof be published in The Record within ten days of the passage as required by law.

RESOLUTION 22-0307-085

**AUTHORIZING CHANGES TO THE OFFICE OF
EMERGENCY MANAGEMENT SUPPORT TEAM**

WHEREAS, the Borough of Somerville has a strong volunteer support network from time to time has a need to make additions and changes; and

WHEREAS, the following adjustments to the OEM support network shall be recognized and we thank all for their volunteer time and sharing of their talents.

OEM Management Committee

Cert Coordinator - Laura Camisa (Pat Mannion resigned form position)

Shelter Coordinator - Pat Mannion (Ken Utter formerly served in role and opted not to be reappointed)

OEM Liaisons

Leigh Mclachlan - (civic league- community support liaison for food/clothing etc)

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Somerville that the authorizes changes to the Office of Emergency management team and thanks Ken Utter and Pat Mannion for their service in past roles.