

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

**Monday, July 18, 2022
6:30 P.M.**

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

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EVENTS

- 1. OPEN PUBLIC MEETING LAW STATEMENT**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES- EXECUTIVE SESSION**
 - a. July 5, 2022
- 4. RESOLUTION 22-0718-226 TO ENTER INTO EXECUTIVE SESSION**

EXECUTIVE SESSION AGENDA

- a. Redevelopment

COUNCIL MEETING AGENDA

- 1. OPEN PUBLIC MEETING LAW STATEMENT**
- 2. ROLL CALL**
- 3. SALUTE TO THE FLAG**
- 4. APPROVAL OF MINUTES**
 - a. July 5, 2022
- 5. DEPARTMENTAL REPORTS & NOTICES**
 - a. St. Hubert's Monthly Report June
 - b. Somerville Division of Health Report May and June

6. COMMITTEE REPORTS

7. DISCUSSION

8. ORDINANCES FOR INTRODUCTION

2678-22-0718

APPROVING AN AGREEMENT OF SALE BETWEEN THE BOROUGH AND NEW JERSEY AMERICAN WATER COMPANY, INC. FOR THE SALE OF THE BOROUGH'S WASTEWATER COLLECTION SYSTEM AND AUTHORIZING A PROPOSAL TO BE PRINTED ON THE BALLOT FOR CONSIDERATION BY THE VOTERS WITHIN THE BOROUGH AT THE GENERAL ELECTION ON NOVEMBER 8, 2022 PROVIDING FOR THE SALE OF THE BOROUGH'S WASTEWATER COLLECTION SYSTEM TO AMERICAN WATER COMPANY, INC.

2679-22-0718

APPROVING AMENDMENTS TO THE LEASE WITH HATHAWAY SOLAR, LLC, THE CONTRACT REDEVELOPER FOR TWO LEASES WITH AFFILIATED ENTITIES OF HATHAWAY SOLAR, LLC FOR PROPERTY KNOWN AS TAX BLOCK 124, PORTIONS OF LOTS 1 & 21 LOCATED IN THE LANDFILL REDEVELOPMENT AREA PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ. FOR A SOLAR PROJECT

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

2675-22-0705

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$5,200,000 FOR STATION ROAD EXTENSION TO ROUTE 206 IN AND BY THE BOROUGH OF SOMERVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$5,200,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION

2676-22-0705

AMENDING CHAPTER 166 SECTION 47 OF THE BOROUGH CODE ENTITLES SCHEDULE VI: TRUCKS OVER FOUR TONS EXCLUDED

2677-22-0705

BOND ORDINANCE AMENDING BOND
ORDINANCE #2650-21-1018 FINALLY ADOPTED
BY THE BOROUGH COUNCIL OF THE BOROUGH
OF SOMERVILLE, NEW JERSEY ON NOVEMBER
1, 2021

10. 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)

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

(RESOLUTIONS 22-0718-227 THRU 22-0718-239)

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

- 22-0718-227 AMENDING RESOLUTION 22-0321-102 AWARDDING A CONTRACT TO BEN SHAFFER RECREATION, INC., THROUGH THE NEW JERSEY PURCHASING ALLIANCE FOR REPAIRS TO PATRICIA WEBSTER BASKETBALL COURT ON MERCER STREET
- 22-0718-228 AUTHORIZING AN APPLICATION FOR GRANT FUNDING TO STATEWIDE INSURANCE FUND UNDER THE 2022 SAFETY AND LOSS CONTROL GRANT PROGRAM
- 22-0718-229 AUTHORIZING THE MAYOR TO EXECUTE SUBGRANTEE AGREEMENT WITH COUNTY OF SOMERSET FOR AN ADDITIONAL \$80,000 OF FUNDING FROM THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR SENIOR CITIZENS HOUSING THROUGH CORONAVIRUS AID
- 22-0718-230 AUTHORIZING SALARY ADJUSTMENTS FOR 2022
- 22-0718-231 ACCEPTING THE RESIGNATION OF KEN UTTER FROM THE PLANNING BOARD
- 22-0718-232 APPROVING JOSEPH JIMENEZ TO BE HIRED AS A LIFEGUARD AT \$17 PER HOUR FROM JUNE 18, 2022 - AUGUST 21, 2022

- 22-0718-233 APPROVING HAILEY BENTZ TO BE HIRED AS A LIFEGUARD AT \$17 PER HOUR FROM JUNE 18, 2022 - AUGUST 21, 2022
- 22-0718-234 APPROVING VANESSA THOMPSON TO BE HIRED AS A LIFEGUARD AT \$17 PER HOUR FROM JUNE 18, 2022 - AUGUST 21, 2022
- 22-0718-235 AWARDING A CONTRACT TO ABSOLUTE FIRE PROTECTION CO., INC. UNDER SOURCEWELL PRICING FOR E-ONE TYPHON TOP MOUNT PUMPER APPARATUS
- 22-0718-236 APPROVING A SECOND 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 THE DEVELOPMENT OF A SOLAR PROJECT
- 22-0718-237 AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR CONSTRUCTION DOCUMENTS, BIDDING AND CONSTRUCTION PHASE SERVICES FOR RESTORATION OF THE ENTRY PORTICO AT SOMERVILLE BOROUGH HALL THE HISTORIC DANIEL ROBERT HOUSE TO HMR ARCHITECTS
- 22-0718-238 ACCEPTING THE RESIGNATION OF MARILYN MARTZ EFFECTIVE AUGUST 1, 2022 (END OF BUSINESS JULY 29, 2022) AND AUTHORIZING FINAL PAYMENT FOR TIME ACCUMULATED
- 22-0718-239 APPROVING ROAD CLOSURE FOR ARTISAN MARKET AUGUST 7, 2022 12:00PM TO 6:00PM ON DIVISION STREET FROM SOUTH STREET TO VETERANS MEMORIAL DRIVE

12. BILLS AND VOUCHERS

13. ADJOURNMENT

KEVIN SLUKA, MUNICIPAL CLERK

Ordinances scheduled for Introduction

ORDINANCE #2678-22-0718

APPROVING AN AGREEMENT OF SALE BETWEEN THE BOROUGH AND NEW JERSEY AMERICAN WATER COMPANY, INC. FOR THE SALE OF THE BOROUGH'S WASTEWATER COLLECTION SYSTEM AND AUTHORIZING A PROPOSAL TO BE PRINTED ON THE BALLOT FOR CONSIDERATION BY THE VOTERS WITHIN THE BOROUGH AT THE GENERAL ELECTION ON NOVEMBER 8, 2022 PROVIDING FOR THE SALE OF THE BOROUGH'S WASTEWATER COLLECTION SYSTEM TO AMERICAN WATER COMPANY, INC.

WHEREAS, the Borough of Somerville, in the County of Somerset, New Jersey (the "Borough") currently owns and operates a wastewater collection system servicing the residents and property owners (the "Customers") within the geographic boundaries of the Borough and a portion of Bridgewater Township (the "System"); and

WHEREAS, the Borough has determined that it is in the best interest of such Customers to sell the System to an entity with experience and expertise in owning and operating such systems in order to meet all necessary demands associated with such System including all present and future requirements of various state and federal regulatory agencies and to make necessary capital improvements to the System; and

WHEREAS, the Borough prepared and distributed a Request for Bids for the Sale of the Wastewater Collection System (the "RFB") dated May 3, 2022 requesting bids for the purchase of the System pursuant to N.J.S.A. 40:62-1 et seq. (the "Public Utilities Law"); and

WHEREAS, on June 22, 2022 the Borough received two bids from two regulated utilities, New Jersey American Water Company, Inc., and Aqua New Jersey to purchase the Borough's System; and

WHEREAS, based on the review of the above referenced bids, the Borough has determined that the bid submitted by New Jersey American Water Company Inc. in the amount of \$7,000,000 was the highest responsible bid; and

WHEREAS, under the terms of the RFB, the Borough would sell all of the Borough's rights and interests in the land and improvements comprising the System, provided that any purchaser of the System would continue to provide wastewater collection services to the Customers in accordance with all applicable

state and local standards, make all capital improvements as required by the RFB, and meet other requirements set forth in the RFB; and

WHEREAS, the Borough and New Jersey American Water Company Inc. have agreed to the terms of the sale of the System; and

WHEREAS, the Public Utilities Law requires that in addition to the approval of the Borough, the legal voters of the Borough must also approve the sale of the System; and

WHEREAS, the Public Utilities Law, specifically N.J.S.A. 40:62-5, authorizes the Borough to request that the clerk of the County of Somerset place the question of the sale of the System on the ballot used at the next general election in the Borough, which is scheduled for November 8, 2022; and

WHEREAS, the Borough desires to enter into the Agreement of Sale, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5 and any other regulatory approvals set forth in the Public Utilities Law.

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

SECTION I

The recitals are hereby incorporated as if set forth in full herein.

SECTION II

The Borough hereby approves the sale of the System to New Jersey American Water Company Inc. for \$7,000,000 in accordance with its bid and in accordance with the terms and conditions of the RFB and the Agreement of Sale, subject to the approval of the voters of the Borough as set forth in N.J.S.A. 40:62-5.

SECTION III

The Agreement of Sale between the Borough and New Jersey American Water Company Inc. entitled "Agreement of Sale between the Borough of Somerville, New Jersey and New Jersey American Water Company Inc." substantially in the form on file in the office of the Borough Clerk, is hereby approved with such further changes, insertions and amendments as deemed necessary by the governing body of the Borough, in consultation with the Borough staff and professionals. The approval of this Agreement of Sale is subject to compliance with the provisions of N.J.S.A. 40:62-5 of the Public Utilities Law.

SECTION IV

The Mayor and Council and all other appropriate officials of the Borough are hereby authorized and directed to execute the Agreement of Sale and any other documents deemed necessary to effectuate the terms of this Ordinance and to proceed with the regulatory process and approvals required under the provisions of the Agreement of Sale and the Public Utilities Law subject to approval of the sale by the voters of the Borough pursuant to N.J.S.A. 40:62-5.

SECTION V

The Mayor and Council hereby requests and directs the Clerk of the County of Somerset to place the following question and explanation on the ballot of the next general election, such to be substantially in the form provided in N.J.S.A. 40:62-5 as follows:

PROPOSAL

"Shall the Borough of Somerville, in the County of Somerset, New Jersey, be authorized to sell its wastewater collection system (commonly known as the "system") to New Jersey American Water Company Inc. for the sum of \$7,000,000?"

_____ Yes

_____ No

Explanation

If a majority of the legal votes cast in the Borough are "yes", the Borough of Somerville will sign an agreement with New Jersey American Water Company Inc. for the sale of the system servicing the residents and property owners within the geographic boundaries of the Borough and a portion of Bridgewater in the amount of \$7,000,000.

This agreement provides that New Jersey American Water Company Inc. will provide and maintain all wastewater collection services to the existing customers of the Borough's system and will make substantial capital improvements to such system in accordance with the terms of the Agreement of Sale approved by the Borough. Subject to the final review and approval of the New Jersey Board of Public Utilities, the service rates to the customers of the Borough's System are proposed to be changed as follows for up to a maximum of 7 years following the sale:

Year	2023	2024	2025	2026	2027	2028
Rate Increase	0%	0%	3%	3%	4%	4%

Upon the completion of the rate schedule approved by the Board of Public Utilities future rate changes shall be subject to approval by the New Jersey Board of Public Utilities.

If a majority of the legal votes cast in the Borough are "no", the Borough will retain the system and will immediately begin a process to increase rates to the extent required to address the need for additional capital improvements and maintenance activities.

SECTION VI

This Ordinance shall take effect as provided by law.

ORDINANCE #2679-22-0718

**APPROVING AMENDMENTS TO THE LEASE WITH HATHAWAY SOLAR, LLC,
THE CONTRACT REDEVELOPER FOR TWO LEASES WITH AFFILIATED
ENTITIES OF HATHAWAY SOLAR, LLC FOR PROPERTY KNOWN AS TAX
BLOCK 124, PORTIONS OF LOTS 1 & 21 LOCATED IN THE LANDFILL
REDEVELOPMENT AREA PURSUANT TO THE LOCAL REDEVELOPMENT AND
HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.
FOR A SOLAR 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, on September 8, 1997 the Borough Council of the Borough of Somerville (the “**Borough**”) adopted a resolution designating an area in need of redevelopment, now known as the Borough Landfill Redevelopment Area (“**Redevelopment Area**”).

SECTION 3. Pursuant to the Redevelopment Law, on March 16, 1998, the Borough, 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.

SECTION 4. Tax Block 124, portions of Lots 1 & 21 (the “**Property**”) are located in the Redevelopment Area.

SECTION 5. 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.

SECTION 6. On May 26, 2021, the Borough entered into a redevelopment agreement (the “**Redevelopment Agreement**”) with Hathaway Solar, LLC, the designated redeveloper for the redevelopment of the Property (the “**Redeveloper**”).

SECTION 7. The Redevelopment Agreement requires the Redeveloper to redevelop the Property and to install, interconnect, and maintain the solar project on the Lease Area (the “**Solar Project**”).

SECTION 8. On February 22, 2022, the Borough entered into that certain Amended and Restated Redevelopment Agreement (the “**First Amended Redevelopment Agreement**”) with the Redeveloper.

SECTION 9. On March 7, 2022, the Borough entered into that certain Supplemental Agreement to Amended and Restated Redevelopment Agreement for remediation of landfill (the “**Supplemental Redevelopment Agreement**”) with the Redeveloper.

SECTION 10. On June 9, 2021, the Borough and the Redeveloper executed a lease for the Property (the “**Original 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.

SECTION 11. The Redeveloper has assigned the Original Lease to its affiliate, who partially assigned its interest in the Original Lease to another affiliate of the Redeveloper (each such affiliate, a “**Lessee**”), and the Borough shall enter into amended and restated leases with each Lessee (such amended and restated leases, collectively, the “**Lease**”), which Lease includes amendments to Exhibit G, Annual Lease Payment Calculation and Payment Procedure, therein to address lease payment reductions based on Redeveloper contributions towards the remediation of the Property pursuant to the applicable terms and conditions in the Redevelopment Agreement and Lease.

SECTION 12. The Borough and Redeveloper have also agreed to amendments to the Redevelopment Agreement consistent with the Lease amendments and other related issues, which have been approved by the Borough.

SECTION 13. The Mayor and Borough Clerk are authorized to execute any and all documents necessary to amend the Original Lease, including the Lease, consisting of two separate lease agreements, in a form substantially consistent with the documents attached hereto, subject to the review and approval of such documents by the Borough’s legal counsel.

SECTION 14. This ordinance shall take effect upon final passage and publication as required by law.

ORDINANCE #2675-22-0705

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$5,200,000 FOR STATION ROAD EXTENSION TO ROUTE 206 IN AND BY THE BOROUGH OF SOMERVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$5,200,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION

BE IT ORDAINED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF SOMERVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

The improvement described in Section 3 of this Bond Ordinance (the “Improvement”) is hereby authorized to be undertaken by the Borough of Somerville, in the County of Somerset, New Jersey (the “Borough”) as a general improvement. For the said Improvement there is hereby appropriated the amount of \$5,200,000. No down payment is required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the “Local Bond Law”) as the purpose authorized herein is in a redevelopment area as permitted by N.J.S.A. 40A:12A-37c.

SECTION 2:

In order to finance the cost of the Improvement, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$5,200,000 pursuant to the provisions of the Local Bond Law (the “Bonds”) at a maximum rate of interest of 6.00%. In anticipation of the issuance of the Bonds and to temporarily finance said Improvement or purposes, negotiable bond anticipation notes of the Borough are hereby authorized to be issued in the principal amount not exceeding \$5,200,000 pursuant to the provisions of the Local Bond Law (the “Bond Anticipation Notes” or “Notes”).

SECTION 3:

(a) The Improvements hereby authorized and the purposes for the financing of which said obligations are to be issued is for the Station Road extension to Route 206 in connection with the Somerset Station Urban Renewal redevelopment project, and including all work and materials necessary therefor and incidental thereto. The redevelopment project consists of mix of residential rental multi-family units and for-sale townhouse units with a total of up to 765 units, related amenities, ground level retail, civic space, public plaza and structured parking, including public parking to serve commuters utilizing the New Jersey Transit Somerville train station.

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvement is \$5,200,000.

(c) The estimated cost of the Improvement is \$5,200,000 which amount represents the initial appropriation made by the Borough.

SECTION 4.

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the municipal finance officer of the Borough (the “Chief Financial Officer”); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Borough Council of the Borough at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

The capital budget of the Borough is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Borough Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvement described in Section 3 of this Bond Ordinance is not a current expense, and is a capital improvement or property that the Borough may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the Improvement, within the limitations of the Local Bond Law, taking into consideration the respective amounts of all obligations authorized for such purpose, according to the reasonable life thereof computed from the date of the Bonds authorized by this Bond Ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Borough, as defined in the Local Bond Law, is increased by the authorization of the Bonds and

Notes provided in this Bond Ordinance by \$5,200,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$1,500,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

Any funds or grant monies received for the purpose described in Section 3 of this Ordinance shall be used for financing said Improvement by application thereof either to direct payment of the cost of said Improvement or to the payment or reduction of the authorization of the obligations of the Borough authorized therefore by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvement shall, be held and applied by the Borough as funds applicable only to the payment of obligations of the Borough authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this Bond Ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9.

The Chief Financial Officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 10:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvement prior to the date that Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the cost of the Improvement is \$5,200,000.

SECTION 11.

This Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ORDINANCE #2676-22-0705

**AMENDING CHAPTER 166 SECTION 47 OF THE BOROUGH CODE ENTITLES
SCHEDULE VI: TRUCKS OVER FOUR TONS EXCLUDED**

WHEREAS, the Borough of Somerville desires to amend Chapter 166 Section 47, Schedule VI: trucks over Four Tons Excluded to include, Davenport Street, Grove Street, N. Bridge Street and portions of Gaston Avenue:

§ 166-47 Schedule VI: Trucks Over Four Tons Excluded.

In accordance with the provisions of § 166-11, trucks over four tons' gross weight are hereby excluded from the following described streets or parts of streets, except for the pickup and delivery of materials on such streets:

Name of Street	Side	Location
Adams Street	Both	Between North Auten Avenue and Adamsville Road
Adamsville Road	West	Between Union Avenue and East Main Street
Davenport Street	Both	Between Route 22 and West Main Street
Gaston Avenue	Both	Between Route 22 and Union Avenue/William Street
Grove Street	Both	Between Route 22 and East Main Street/West Main Street
Hope Street	Both	Between North Auten Avenue and Adamsville Road
Madison Street	Both	Between North Auten Avenue and Adamsville Road
North Bridge Street	Both	Between Route 22 and West Main Street
Putnam Street	Both	Between North Auten Avenue and Adamsville Road
William Street	Both	Between Gaston Avenue and Culver

Name of Street	Side	Location
William Street	Both	Street Between Grove Street and North Bridge Street

NOW THEREFORE BE IT ORDAINED, that the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey hereby amends Chapter 166 Section 47, Schedule VI: Trucks over Four Tons Excluded to include, Davenport Street, Grove Street, N. Bridge Street and portions of Gaston Avenue and directs the Municipal Clerk to send this adopted ordinance to the State of New Jersey Department of Transportation, Township of Bridgewater, County of Somerset and Regional Center Partnership.

ORDINANCE #2676-22-0705

BOND ORDINANCE AMENDING BOND ORDINANCE #2650-21-1018 FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SOMERVILLE, NEW JERSEY ON NOVEMBER 1, 2021

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SOMERVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The Bond Ordinance of the Borough Council of the Borough of Somerville, in the County of Somerset, New Jersey (the “Borough”) entitled “Bond Ordinance Providing An Appropriation Of \$800,000 For Acquisition Of A Fire Truck For And By The Borough Of Somerville, In The County Of Somerset, New Jersey And Authorizing The Issuance Of \$760,000 Bonds Or Notes Of The Borough For Financing Part Of The Appropriation” finally adopted on November 1, 2021 (the “Ordinance”), is hereby incorporated by reference in its entirety.

Section 2. The Ordinance is hereby amended by deleting the reference of “\$800,000” for the appropriation and estimated cost and substituting in lieu thereof “\$820,000”

This Ordinance is further amended by amending the second sentence in Section 1 as follows: “For the said Improvements there is hereby appropriated the amount of \$800,000, such sum includes the sum of (a) \$20,000 expected to be received from the Capital Improvement Fund and (b) \$40,000 as the down payment required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the “Local Bond Law”)”.

Section 3. The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolutions in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division

of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 4. This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvements prior to the date that Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$760,000.

Section 5. All other provisions of the Ordinance shall remain unchanged.

Section 6. This amendatory bond ordinance shall take effect twenty days after the first publication thereof after final adoption as provided by Local Bond Law.

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

RESOLUTION 22-0718-227

AMENDING RESOLUTION 22-0321-102 AWARDED A CONTRACT TO BEN SHAFFER RECREATION, INC., THROUGH THE NEW JERSEY PURCHASING ALLIANCE FOR REPAIRS TO PATRICIA WEBSTER BASKETBALL COURT ON MERCER STREET

WHEREAS, N.J.S.A. 52:34-6.2(b) P.L.2011, c.139 was enacted into law permitting agencies to use purchasing cooperatives: and

WHEREAS, the Borough of Somerville is member of the New Jersey Cooperative Purchasing Alliance; and

WHEREAS, Ben Shaffer Recreation Inc. holds the Cooperative Purchase contract for the period between June 2, 2021, and June 1, 2023 as Contract Bid #21-24 Co-op #11 BECCP; and

WHEREAS, the Borough of Somerville awarded a contract to Ben Shaffer Recreation Inc., P.O. Box 844, Lake Hopatcong, NJ 07849, in the amount of \$152,876.65 via Resolution 22-0302-102; and

WHEREAS, the contract amount needs to be adjusted for price adjustment freight and asphalt for a total of \$6,111.25; and

WHEREAS, the Chief Finance Officer has certified the availability of funds for this contract.

NOW THEREFORE BE IT RESOLVED, the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey does hereby amends the contract

for repairs of Patricia Webster Basketball Courts at Mercer Street to Ben Shaffer Recreation Inc., P.O. Box 844, Lake Hopatcong, NJ 07849, from \$152,876.65 to \$158,987.90.

RESOLUTION 22-0718-228

AUTHORIZING AN APPLICATION FOR GRANT FUNDING TO STATEWIDE INSURANCE FUND UNDER THE 2022 SAFETY AND LOSS CONTROL GRANT PROGRAM

WHEREAS, the Borough of Somerville is eligible for grant funds in the maximum amount of \$8,394.82 towards the purchase of equipment that can be used for general safety and loss prevention equipment procurement; and

WHEREAS, the Borough of Somerville has a need for a push camera system that can access stormwater pipes from 3" to 10"; and

WHEREAS, said equipment is available through Pierce-eagle Equipment at a cost of \$12,273.00; and

WHEREAS, if successful, the Borough would pay all amounts over the grant award amount estimated as follows: Grant \$8,394.82, DPW contribution, \$3,878.18 for a total amount of \$12,273.00.

NOW THEREFORE BE IT RESOLVED, the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey does hereby authorize an application for grant funding to Statewide Insurance Fund under the 2022 Safety and Loss Grant program for the amount of \$8,394.82.

RESOLUTION 22-0718-229

AUTHORIZING THE MAYOR TO EXECUTE SUBGRANTEE AGREEMENT WITH COUNTY OF SOMERSET FOR AN ADDITIONAL \$80,000 OF FUNDING FROM THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR SENIOR CITIZENS HOUSING THROUGH CORONAVIRUS AID

WHEREAS, the Borough of Somerville applied for and received funding for use at the Senior Citizens Housing; and

WHEREAS, additional funding has become available in the amount of \$80,000 for a total amount of \$194,763.38.

NOW THEREFORE BE IT RESOLVED, the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey does hereby authorize the Mayor to execute the subgrantee agreement with the County of Somerset for an additional \$80,000 of funding from the Community Development Block Grant Program for Senior Citizen Housing through the Coronavirus Aid.

RESOLUTION 22-0718-230

AUTHORIZING SALARY ADJUSTMENTS FOR 2022

BE IT RESOLVED, the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey does hereby authorize the adjustment of salaries retroactive to January 1, 2022 as follows:

Mayor: \$4,500
Councilmember \$4,000

RESOLUTION 22-0718-231

**ACCEPTING THE RESIGNATION OF KEN UTTER
FROM THE PLANNING BOARD**

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey accepts the resignation of Ken Utter from the Planning Board immediately. We wish him well and thank him for his service.

RESOLUTION 22-0718-232

**APPROVING JOSEPH JIMENEZ TO BE HIRED AS A LIFEGUARD AT \$17 PER
HOUR FROM JUNE 18, 2022 - AUGUST 21, 2022**

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey approves Joseph Jimenez to be hired as a Lifeguard at \$17 per hour from June 18, 2022 – August 21, 2022.

RESOLUTION 22-0718-233

**APPROVING HAILEY BENTZ TO BE HIRED AS A LIFEGUARD AT \$17 PER HOUR
FROM JUNE 18, 2022 - AUGUST 21, 2022**

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey approves Hailey Bentz to be hired as a Lifeguard at \$17 per hour from June 18, 2022 – August 21, 2022.

RESOLUTION 22-0718-234

**APPROVING VANESSA THOMPSON TO BE HIRED AS A LIFEGUARD AT \$17 PER
HOUR FROM JUNE 18, 2022 - AUGUST 21, 2022**

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey approves Vanessa Thompson to be hired as a Lifeguard at \$17 per hour from June 18, 2022 – August 21, 2022.

RESOLUTION 22-0718-235

AWARDING A CONTRACT TO ABSOLUTE FIRE PROTECTION CO., INC. UNDER SOURCEWELL PRICING FOR E-ONE TYPHON TOP MOUNT PUMPER APPARATUS

WHEREAS, pursuant to N.J.S.A. 52:34-6.2b.(3) (as amended by P.L. 2011, c.139) and LFN 2012-10, a New Jersey municipality may purchase goods and services without public bidding under the Local Public Contracts Law through the use of a nationally-recognized and accepted cooperative purchasing contract that has been developed utilizing a competitive bidding or contracting process by another contracting unit within New Jersey or another state; and

WHEREAS, the Borough of Somerville has a need to for One (1) E-ONE Typhon Top Mount Pumper Apparatus; and

WHEREAS, Absolute Fire Protection Co., Inc., 2800 Hamilton Blvd., South Plainfield, NJ 07080 is a vendor under the National Cooperative and has submitted Proposal under Sourcwell Pricing; and

WHEREAS, Absolute Fire Protection Co., Inc. has the equipment desired by the Borough of Somerville under Contract #113021-RVG-1; and

WHEREAS, the Borough of Somerville is required to accept public comments and hence placed a legal ad in the official newspaper informing the public of an intent to award and did not receive any comments.

BE IT RESOLVED, that the Borough Council, of the Borough of Somerville, County of Somerset, State of New Jersey hereby awards a contract to Absolute Fire Protection Co., Inc, 2800 Hamilton Blvd., South Plainfield, NJ 07080 and has submitted Proposal under Sourcwell Pricing to the Borough of Somerville at a cost of \$819,923.00.

RESOLUTION 22-0718-236

APPROVING A SECOND 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 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 & 21 (the “Property”) are located in the Redevelopment Area; and

WHEREAS, on September 8, 2020, the Borough adopted a resolution designating CS Energy operating as Hathaway Solar, LLC (the “Redeveloper”) as a conditional redeveloper for the Property having determined that CS Energy operating as Hathaway Solar, LLC was the best qualified solar provider due to its extensive experience with the construction, financing, operating and management of solar projects, including those on landfills; and

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

WHEREAS, on February 22, 2022, the Borough entered into that certain Amended and Restated Redevelopment Agreement (the “**First Amended Redevelopment Agreement**”) with the Redeveloper; and

WHEREAS, on March 7, 2022, the Borough entered into a Supplemental Agreement to Amended and Restated Redevelopment Agreement for remediation of landfill (the “**Supplemental Redevelopment Agreement**”) with the Redeveloper; and

WHEREAS, on June 9, 2021, the Borough and the Redeveloper executed a lease for the Property (the “**Original 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, the Redeveloper has assigned the Original Lease to its affiliate, who partially assigned its interest in the Original Lease to another affiliate of the Redeveloper (each such affiliate, a “**Lessee**”), and the Borough shall enter into amended and restated leases with each Lessee (such amended and restated leases, collectively, the “**Lease**”), which Lease includes amendments to Exhibit G, Annual Lease Payment Calculation and Payment Procedure, therein to address lease payment reductions based on Redeveloper contributions towards the remediation of the Property pursuant to the applicable terms and conditions in the Redevelopment Agreement and Lease; and

WHEREAS, the Borough and Redeveloper have also agreed to amendments to the Redevelopment Agreement consistent with the Lease amendments and other related issues; 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, the Borough and Redeveloper have agreed to the amend the terms and conditions with respect to the redevelopment of the Property, the construction of the improvements and the payment of certain costs in connection as set forth herein.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Somerville that it hereby approves a Second 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 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 Second 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.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

RESOLUTION 22-0718-237

AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR CONSTRUCTION DOCUMENTS, BIDDING AND CONSTRUCTION PHASE SERVICES FOR RESTORATION OF THE ENTRY PORTICO AT SOMERVILLE BOROUGH HALL THE HISTORIC DANIEL ROBERT HOUSE TO HMR ARCHITECTS

WHEREAS, the Borough of Somerville requires professional service for Construction Documents, Bidding and Construction Phase Services for Restoration of the Entry Portico at Somerville Borough Hall The Historic Daniel Robert House; and

WHEREAS, the Borough Administrator has determined and certified in writing by copy of this Resolution that the value of the contract will exceed \$17,500; and

WHEREAS, the firm of HMR Architects submitted a proposal that exhibited a familiarity with the Borough of Somerville, experience with municipalities within the County, public clients of similar size, projects of similar size, and an hourly rate acceptable to the Borough; and

WHEREAS, the firm of HMR Architects has submitted a proposal along with Political Contribution Disclosure and Business Entity Disclosure fulfilling the requirements to enable the firm of HMR Architects to provide such services; and

WHEREAS, the firm of HMR Architects shall serve as professional service for Construction Documents, Bidding and Construction Phase Services for Restoration of the Entry Portico at Somerville Borough Hall The Historic Daniel Robert House in accordance with their proposal dated June 30, 2022 for Entry Portico at Somerville Borough Hall The Historic Daniel Robert House project.

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

1. A professional services contract with HMR Architects, 821 Alexander Road, Princeton, NJ 08540 is hereby authorized
2. The Mayor and Clerk are authorized to sign a contract with HMR Architects, 821 Alexander Road, Princeton, NJ 08540 in accordance with the following terms and conditions:
 - A. Term: The contract shall be awarded for the Entry Portico at Somerville Borough Hall
The Historic Daniel Robert House project
 - B. Rate: Total Professional Fees: \$20,875.00
 - C. Services: The firm shall provide Construction Documents, Bidding and Construction Phase Services for Restoration of the Entry Portico at Somerville Borough Hall
The Historic Daniel Robert House
3. The Borough Clerk in accordance with the provisions of N.J.S.A. 40A:11-5(1)(a)(i), is directed to publish a notice once in the Official Newspaper stating the nature, duration, service and amount of this contract.
4. The Borough Clerk shall make copies of this resolution available for public inspection at the Municipal Building, 25 West End Avenue, Somerville, NJ during regular business hours.

RESOLUTION 22-0718-238

ACCEPTING THE RETIRMENT RESIGNATION OF MARILYN MARTZ EFFECTIVE AUGUST 1, 2022 (END OF BUSINESS JULY 29, 2022) AND AUTHORIZING FINAL PAYMENT FOR TIME ACCUMULATED

BE IT RESOLVED by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey hereby accepts the retirement resignation of Marilyn Martz effective August 1, 2022 (end of business July 29, 2022) and wishes her well in her future endeavors and authorizes final payment for time accumulated at a rate of \$184.70 @ 23 days = \$4,248.00

RESOLUTION 22-0718-239

APPROVING ROAD CLOSURE FOR ARTISAN MARKET AUGUST 7, 2022 12:00PM TO 6:00PM ON DIVISION STREET FROM SOUTH STREET TO VETERANS MEMORIAL DRIVE

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey approves road closure for Artisan Market on August 7, 2022 12:00pm to 6:00pm on Division Street from South Street to Veterans Memorial Drive.