

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

**Tuesday, January 16, 2024
Executive Session 6:00 P.M.
Public Portion 7:00 P.M. (estimate)**

LOCATION: COUNCIL CHAMBERS – SOMERVILLE CIVIC CENTER
24 ROBESON STREET, SOMERVILLE, NJ 08876

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- 1. OPEN PUBLIC MEETING LAW STATEMENT**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES- EXECUTIVE SESSION**
 - a. December 18, 2023
- 4. RESOLUTION 24-0116-037 TO ENTER INTO EXECUTIVE SESSION**

EXECUTIVE SESSION AGENDA

- a. Open Public Meetings Act review.
- b. Redevelopment
- c. PBA Negotiations
- d. Personnel- Police Promotions
- e. Personnel- Management & non-union adjustments

COUNCIL MEETING AGENDA

- 1. OPEN PUBLIC MEETING LAW STATEMENT**
- 2. ROLL CALL**
- 3. SALUTE TO THE FLAG**
- 4. APPROVAL OF MINUTES**
 - a. December 18, 2023

5. DEPARTMENTAL REPORTS & NOTICES

- a. Polling locations to remain same for 2024.
- b. SRVSA FY 2023 Budget adopted.
- c. Ridge Oak Senior Housing, Basking Ridge – applications open
- d. 1-9-24 Proclamation of Local Emergency 1730 hrs.
- e. Environmental Commission

6. OEM RESPONSE REPORT – 1/9/24 – 1/10/24 EVENT

7. COMMITTEE REPORTS

8. ORDINANCES FOR INTRODUCTION (full copy is available at the end of this agenda)

2721-24-0116 AMENDING CHAPTER 6 OF THE BOROUGH CODE ENTITLED MARRIAGE AND CIVIL UNION CEREMONY FEES

2722-24-0116 AMENDING CHAPTER 166 – 50 SCHEDULE IX ENTITLED STOP INTERSECTIONS

2723-24-0116 AMENDING CHAPTER 166 – 54 SCHEDULE XIII A ENTITLED BUS STOPS

2724-24-0116 AMENDING CHAPTER 166-65 SCHEDULE XXIA ON-STREET PARKING METER ZONES REDUCING METER PARKING TIME REQUIREMENTS ON VETERANS MEMORIAL DRIVE EAST ON SOUTHSIDE OF ROADWAY TO 7:00 A.M.- 6:00 P.M. MONDAY THROUGH SATURDAY

2725-24-0116 ESTABLISHING CHAPTER 103 OF THE BOROUGH CODE ENTITLED LEGALIZED GAMING

2726-24-0116 AMENDING ORDINANCE #2682-22-0906 ESTABLISHING A SALARY RANGE FOR EMPLOYEE TITLES TO BE PAID TO CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF SOMERVILLE

9. 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)

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

(RESOLUTIONS 24-0116-038 THRU 24-0116-045)

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

- 24-0116-038 AUTHORIZING INVOICING FOR 2024 PARKING IMPACT FEES
- 24-0116-039 APPOINTING GERALDINE DESAPIO AS A REGULAR MEMBER OF THE ENVIRONMENTAL COMMISSION TO AN UNEXPIRED TERM (ENDING ON December 31, 2025) AND REMOVING GERALDINE DESAPIO FROM THE ALTERNATE #2 POSITION (expiring on December 31, 2025)
- 24-0116-040 AFFIRMING APPOINTMENT OF DEPUTY EMERGENCY MANAGEMENT COORDINATORS – BRYAN O’NEILL & KEVIN SLUKA
- 24-0116-041 ACCEPTANCE RESIGNATION FROM ROBERTA HARMON- ENVIRONMENTAL COMMISSION (Alternate #1 expiring 12/31/2024)
- 24-0116-042 APPOINTING TIMARIE DIEL AND JEFRY TINEO TO THE ENVIRONMENTAL COMMISSION AS ALTERNATE #1 Expiration 12/31/24) and ALTERNATE #2 (12/31/25)
- 24-0116-043 AFFIRMING THE ENVIRONMENTAL COMMISSION MEMBERS AND EXPIRATION DATES
- 24-0116-044 AUTHORIZING AN AGREEMENT BETWEEN THE BOROUGH OF SOMERVILLE AND COUNTY OF SOMERSET FOR RECYCLING PICK-UP FOR THE YEAR OF 2024
- 24-0116-045 REQUESTING THAT FDS SOMERVILLE NJ, LLC, PURSUANT TO THE TERMS OF THE GOVERNING BUILD TO SUIT LEASE, AUTHORIZE AND EXECUTE CHANGE ORDER NO. 1 TO THE CONTRACT ENTERED INTO BY FDS SOMERVILLE NJ, LLC WITH DAVID E. HARVEY BUILDERS, INC., WITH CHANGE ORDER NO. 1 PROVIDING FOR THE SUPPLY OF A NEDERMAN VEHICLE EXHAUST SYSTEM TO BE INSTALLED IN THE EMERGENCY SERVICES FACILITY BEING CONSTRUCTED AT 85 – 101 NORTH GASTON AVENUE IN THE BOROUGH OF SOMERVILLE

11. BILLS AND VOUCHERS

12. ADJOURNMENT

KEVIN SLUKA, MUNICIPAL CLERK

Ordinances scheduled for Introduction

ORDINANCE #2721-24-0116

AMENDING CHAPTER 6 OF THE BOROUGH CODE ENTITLED MARRIAGE AND CIVIL UNION CEREMONY FEES

BE IT ORDAINED THAT Chapter 6 of the Borough Code entitled Marriage and Civil Union Ceremony Fees shall be amended to read as follows:

§ 6-1 Purpose.

The purpose of this chapter is to establish policies and procedures for the collection of fees associated with the performance of marriage and civil union ceremonies performed by the Mayor.

§ 6-2 Collection of Fees; Compensation through the Performance of Marriage and Civil Union Ceremonies.

- A. Collection of fees. Persons seeking to be married or joined in civil union ceremonies by the Mayor shall remit the appropriate fee to be paid to the Borough of Somerville.
- (1) Fee for officiant in the amount of \$250
 - (2) Administrative Fee of \$35.00
- B. Compensation through the performance of marriage and civil union ceremonies.
- (1) Receipt of fees. The fee shall be paid by check to the Borough of Somerville and shall be deposited in the Borough's current fund.
 - (2) Disbursement of fees. The fee for service in the amount of two hundred fifty dollars (\$250) may be disbursed to the Mayor in the amount of two hundred fifty dollars (\$250) through the appropriate budget line item and with the appropriate authorization.
 - (3) The Mayor may waive the officiant fee but shall not waive the administrative fee.

ORDINANCE #2722-24-0116

AMENDING CHAPTER 166 – 50 SCHEDULE IX ENTITLED STOP INTERSECTIONS

BE IT ORDAINED THAT, the following locations shall be listed on Schedule IX, Stop Locations

§ 166-50 Schedule IX: Stop Intersections.

In accordance with the provisions of § 166-14, the following described intersections are hereby

designated as stop intersections:

Stop Sign	On Intersection
Hamilton Street	Southside Avenue & Hamilton Street
Southside Avenue	Hamilton Street & Southside Avenue

ORDINANCE #2723-24-0116

AMENDING CHAPTER 166 – 54 SCHEDULE XIII A ENTITLED BUS STOPS

BE IT ORDAINED THAT, Chapter 166-54 Schedule XIA: Bus Stops be amended to include two additional stops.

§ 166-54 **Schedule XIII A: Bus Stops; Schedule XIII B: Midblock Crosswalks.**

A. Schedule XIII A: Bus Stops. In accordance with the provisions of § **166-18A**, the following described locations are hereby designated as bus stops.

Name of Street	Side	Location	Type*
Veterans Memorial Dr. W. (westbound)	North	Beginning 195 feet of the westerly curb line of Division Street and extending 135 feet therefrom (across from Somerville Train Station staircase)	FS
Veterans Memorial Dr. W.	South	Beginning 240 feet of the westerly curb line of Division Street and extending 135 feet therefrom (in front of Somerville Train Station staircase)	MB

Notes:

*Type

NS = near side bus stop
(bus stops before
intersection).

FS = far side bus stop (bus

Name of Street	Side	Location	Type*
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stops after intersection).

MB = mid-block bus stop
(bus stops between
intersection).

ORDINANCE 2724-24-0116

AMENDING CHAPTER 166-65 SCHEDULE XXIA ON-STREET PARKING METER ZONES REDUCING METER PARKING TIME REQUIREMENTS ON VETERANS MEMORIAL DRIVE EAST ON SOUTHSIDE OF ROADWAY TO 7:00 A.M.- 6:00 P.M. MONDAY THROUGH SATURDAY

§ 166-65 Schedule XXIA: On-Street Parking Metered Zones.
[Amended 2-21-2017 by Ord. No. 2513; 4-16-2018 by Ord. No. 2548]

A. (i) Veterans Memorial Drive West metered parking zone is from 7:00 a.m. – 6:00 p.m. Monday through Saturday

Name of Street	Side	Time	Rate	Location
Veterans Memorial Drive	South	11 hours	\$0.25/hr.	From a line perpendicular to South Doughty Street to South Bridge Street

ORDINANCE # 2725-24-0116

ESTABLISHING CHAPTER 103 OF THE BOROUGH CODE ENTITLED LEGALIZED GAMING

Chapter 103
Legalized Gaming

Article I
Legalized Gaming and Fees

§ 103-1 Legalized games defined.

Licenses issued for Raffles, Bingo, and Casino Nights by the Borough Clerk in accordance with the rules and regulations and approval issued by the State of New Jersey Legalized Games of Chance Commission (LGCCC). Legalized games of chance include off-premises draw raffles for merchandise, off-premises 50/50 cash raffles, on-premise 50/50, non-draw raffles, on-premise draw casino night, bingo, armchair races, tab pulls and any other games of chance authorized by the State of

New Jersey Legalized Games of Chance Control Commission.

§ 103-2 Days allowed to conduct legalized games of chance.

Approved and legalized games of chance are able to be conducted on any day of the week.

§ 103-3 Forms and application.

All forms are available on the State of New Jersey Legalized Games of Chance Control Commission website.

§ 103-4 Fees.

The Borough Clerk shall charge a fee that is equal to the fee that is charged by the State of New Jersey Legalized Games of Chance Control Commission.

- A. The applicant shall submit two checks one payable to the Borough of Somerville and one payable to Legalized Games of Chance Control Commission.
- B. With certain raffles additional fees are required by the State of New Jersey Legalized Games of Chance Control Commission. In those cases, the Borough shall also receive an amount payable to the Borough of Somerville.
- C. Payment of Fees is only payable by check or money order and the applicant shall not combine checks.

ORDINANCE# 2726-24-0116

AMENDING ORDINANCE #2682-22-0906 ESTABLISHING A SALARY RANGE FOR EMPLOYEE TITLES TO BE PAID TO CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF SOMERVILLE

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

SECTION 1. The salaries, wages or other compensation to be paid to the following officers and employees of the Borough of Somerville, in the County of Somerset, shall be fixed and determined from time to time by resolution of the Council, of the said Borough, at amounts or rates of not less than the respective minimum, nor more than the respective maximum amounts or rates hereinafter set forth opposite the title of the respective officers or employees as follows:

<u>PRIMARY TITLE</u>	<u>MIN</u>	<u>MAX</u>
MAYOR	\$3,500	\$5,500
COUNCIL MEMBER	\$3,000	\$4,500
BORO ADMINISTRATOR	\$91,600	\$142,000
BORO CLERK	\$54,400	\$90,000
DEPUTY CLERK	\$35,000	\$70,000
BORO ATTORNEY	\$32,000	\$65,000
EXECUTIVE ASSISTANT	\$40,000	\$60,000

RECEPTIONIST/ADMINISTRATIVE ASSISTANT	\$40,000	\$55,000
ASS'T TO DPW DIR/ASST TO ENGINEER	\$80,000	\$135,000
PROJECT MANAGER	\$44,000	\$65,000
PUBLIC WORKS MANAGER	\$75,000	\$145,000
DIR OF COMM DEV	\$45,000	\$135,000
CHIEF FINANCIAL OFFICER	\$75,000	\$155,000
ASISTANT TO THE CFO/PAYROLL	\$45,000	\$70,000
RECREATION DIRECTOR	\$45,000	\$90,000
SUPT OF FIRE MAINT.	\$45,000	\$90,000
ASST SUPT FIRE	\$40,000	\$65,000
TAX ASSESSOR (PT)	\$32,000	\$65,000
ASST TAX ASSESSOR	\$32,000	\$40,000
CORRESPONDING SECTY (PT)	\$32,000	\$50,000
SECRETARY	\$32,000	\$60,000
CONFIDENTIAL SECTY	\$32,000	\$60,000
MUNICIPAL JUDGE	\$20,000	\$70,000
ASS'T TO FINANCE OFFICER/RECEPTIONIST	\$39,000	\$70,000
TAX COLLECTOR	\$32,000	\$80,000
DEP TAX COLL	\$32,000	\$70,000
DEP SEWER UTY COLL	\$32,000	\$35,000
PLUMBING SUB-CODE	\$3,000	\$25,000
FIRE SUB-CODE INSP PT	\$10,000	\$30,000
FIRE OFFICIAL	\$32,000	\$90,000
FIRE INSPECTOR/PROPERTY MTC	\$42,000	\$55,000
PART-TIME FIRE INSPECTOR	\$10,000	\$50,000
PART-TIME ASSISTANT TO		
PART-TIME TECHNICAL ASSISTANT	\$10,000	\$30,000
TO CONSTRUCTION OFFICIAL		
FULL-TIME TECHNICAL ASSISTANT	\$45,000	\$70,000
TO CONSTRUCTION OFFICIAL		
ELECTRICAL SUBCODE/CONST CODE OFF.	\$45,000	\$95,000
FIRE SUBCODE/INSPECTOR/	\$85,000	\$135,000
ELECTRICAL SUBCODE/INSPECTOR		
BUILDG SUB CODE/INSPECTOR		
HOUSING INSP (PT)	\$3,000	\$40,000
DEPY CODE ENF OFF	\$32,000	\$50,000
BUILDING SUB-CODE	\$2,000	\$25,000
BOOKKEEPER/CLERK	\$32,000	\$50,000
SR. CLK /TYPIST	\$32,000	\$45,000
CLERK/TYPIST PT	\$20,000	\$40,000
CLERK PT	\$10,000	\$30,000
SECTY PL/ZONING BDS (administrator)	\$32,000	\$80,000
REGISTRAR/VITAL STAT	\$45,000	\$90,000
DEP REGISTRAR/ADMIN ASS'T	\$45,000	\$70,000
DEPUTY REGISTRAR	\$45,000	\$65,000
PARK ENFORC OFF	\$33,000	\$60,000
RECEPTIONIST – PT	\$17.00/hr	\$26.00/hr
PARK ENFORC. – PT.	\$17.00/hr	\$26.00/hr
PART-TIME INTERN	\$17.00/hr	\$20.00/hr
PART-TIME CLERICAL	\$17.00/hr	\$30.00/hr
RECREATION ASSISTANTS	\$17.00/hr	\$30.00/hr

LIFEGUARDS	\$18.00/hr	\$25.00/hr
POOL SUPERVISOR	\$21.00/hr	\$25.00/hr
PART-TIME FIRE MAINTENANCE (hourly)	\$17.00/hr	\$35.00/hr
PART-TIME FIRE MAINTENANCE	\$10,000	\$35,000
INTERN	\$17.00/hr	\$25.00/hr
FIRE MAINTENANCE	\$17.00/hr	\$26.00/hr

FIRE DEPARTMENT:

FIRE APPARATUS DRIVER	\$600	\$2,000
FIRE DUTY	\$17.00/hr	\$20.00/hr
FIRE WATCH	\$17.00/hr	\$20.00/hr
FIRE ON-CALL	\$17.00/hr	\$20.00/hr

POLICE DEPARTMENT: (salary as per collective bargain contract)

CHIEF OF POLICE	\$140,000	\$195,000
CAPTAIN	\$115,000	\$190,000
LIEUTENANT	\$105,000	\$185,000
SERGEANT	\$79,000	\$180,000
DETECTIVE	\$60,000	\$165,000
PATROLMAN	\$50,000	\$165,000

PUBLIC WORKS: DPW employees are hourly employees salary as per collective bargaining contract

GENERAL	\$50,000	\$85,000
SUPERVISING MECHANIC	\$48,000	\$85,000
MECHANIC	\$44,000	\$75,000
HEAVY EQUIP OPR	\$46,000	\$70,000
LIGHT EQUIP OPR	\$46,000	\$70,000
DRIVER LABORER	\$46,000	\$65,000
LABORERS	\$40,000	\$55,000
DRIVER-LABORER-INSPECTOR	\$40,000	\$60,000
CUSTODIAN	\$35,000	\$55,000
HEAD CUSTODIAN	\$37,000	\$58,000
PART- TIME LABORER	\$17.00/hr	\$30.00/hr
SEASONAL EMPLOYEES	\$17.00/hr	\$25.00/hr

Part time employees and Public Works employees are hourly employees.

Contracts for PBA, OPEIU and AFSCME shall govern salary adjustments of fulltime and unionized part-time employees.

Hourly, non-unionized and management are governed by the Borough Council.

SECTION 2. Not all titles are used. The Borough reserves the right to amend the ordinance to accommodate new titles.

SECTION 3. The Borough Council reserves the right to hire any individual within the range by Resolution.

SECTION 4. This ordinance shall take effect immediately upon its 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 24-0116-038

AUTHORIZING INVOICING FOR 2024 PARKING IMPACT FEES

WHEREAS, the following entities are required to pay parking impact fees for 2024; and

WHEREAS, the Borough Council authorizes the issuance of invoices annually.

Location	Block & Lot	Owner	2023
66-76 & 78-84 W. Main Street	Block 114 Lots 23 & 24	DGM West Management LLC 313 US Highway N. Suite 9 Chester, NJ 07930	\$2,520.00
6 N. Doughty Avenue	Block 115 Lots 27.02	DGM West Management LLC 313 US Highway N. Suite 9 Chester, NJ 07930	\$6,120.00
24 Division Street	Block 118 Lot 16	24 Division Redev. 407 Frederick Avenue S. Plainfield, NJ 07080	\$360.00
9-13 Division Street	Block 119 Lot 22	9-13 Division Street, LLC 157 Hillside Terrace Staten Island NY 10308	\$1,440.00
55-57 West Main Street	Block 118 Lot 11	Alpine Holdings Group 27 Mehan Avenue Raritan, NJ 08869	\$1,440.00
15-23 Division Street	Block 119 Lot 21.01	Manasquan Bank 2221 Landmark Place Wall, NJ 08736	\$1,440.00
Wolfgang's Valet Parking			\$1,404.00
Cobalt parking in Garage		The Cobalt Urban Renewal, LLC 41 Bayard Street New Brunswick, NJ 08901	\$6,400.00 per 1/4 \$12,480.00 per 1/2 \$23,040 per year
The Davenport		The Davenport Urban Renewal, LLC 41 Bayard Street New Brunswick, NJ 08901	\$800.00 per 1/4 \$1,560.00 per 1/2 \$2,880.00 per year
Station House parking in Garage	Block 611 Lots 4, 5 & 6.01	DGM Station House Urban Renewal, LLC 313 Route 206, Suite 9 Chester, NJ 07930	\$4,000.00 per 1/4 \$7,800.00 per 1/2 \$14,400.00 per year

THEREFORE, BE IT RESOLVED by the governing body of the Borough of Somerville hereby authorizes the Borough Clerk to invoice the property owners as listed in the preamble.

BE IT FURTHER RESOLVED, that an audit will be conducted to identify any due past balances and liens shall be attached for outstanding balances.

RESOLUTION 24-0116-039

APPOINTING GERALDINE DESAPIO AS A REGULAR MEMBER OF THE ENVIRONMENTAL COMMISSION TO AN UNEXPIRED TERM (ENDING ON December 31, 2025) AND REMOVING GERALDINE DESAPIO FROM THE ALTERNATE #2 POSITION (expiring on December 31, 2025)

BE IT RESOLVED, by the Borough of Somerville, County of Somerset, State of New Jersey the Mayor hereby appoints and Borough Council consents as follows:

1. Geraldine Desapio shall be appointed to the Environmental Commission to the regular unexpired term ending on December 31, 2025.
2. Geraldine Desapio will vacate the Alternate #2 position (expires on 12/31/25) on the Environmental Commission.

RESOLUTION 24-0116-040

AFFIRMING APPOINTMENT OF DEPUTY EMERGENCY MANAGEMENT COORDINATORS – BRYAN O'NEILL & KEVIN SLUKA

BE IT RESOLVED, by the Borough of Somerville, County of Somerset, State of New Jersey the Emergency Management Coordinator appoints with the approval of the Mayor and Borough Council hereby affirms as follows:

1. Bryan O'Neill meets all the educational requirements to be appointed Deputy Emergency Management Coordinator and shall be appointed retroactively to January 1, 2024, with a term ending on December 31, 2024.
2. Kevin Sluka meets all the educational requirements to be appointed Deputy Emergency Management Coordinator and shall be appointed retroactively to January 1, 2024, with a term ending on December 31, 2024.

BE IT FURTHER RESOLVED, that the Municipal Clerk shall provide a copy of the signed and sealed resolution to the Somerville Emergency Management Coordinator and Somerset County Emergency Management Coordinator.

RESOLUTION 24-0116-041

ACCEPTANCE RESIGNATION FROM ROBERTA HARMON- ENVIRONMENTAL COMMISSION (Alternate #1 expiring 12/31/2024)

BE IT RESOLVED, by the Borough Council of the Borough of Somerville, County of Somerset, State of New Jersey hereby accepts the resignation of Roberta Harmon, Alternate #1 from the Environmental Commission and we thank her for her service.

RESOLUTION 24-0116-042

APPOINTING TIMARIE DIEL AND JEFRY TINEO TO THE ENVIRONMENTAL COMMISSION AS ALTERNATE #1 Expiration 12/31/24) and ALTERNATE #2 (12/31/25)

BE IT RESOLVED, by the Borough of Somerville, County of Somerset, State of New Jersey the Mayor hereby appoints and Borough Council consents as follows:

1. Timarie Diel shall be appointed to the Environmental Commission to the Alternate #1 unexpired term ending on December 31, 2024.
2. Jeffrey Tineo shall be appointed to the Environmental Commission to the Alternate #2 unexpired term ending on December 31, 2025.

RESOLUTION 24-0116-043

AFFIRMING THE ENVIRONMENTAL COMMISSION MEMBERS AND EXPIRATION DATES

BE IT RESOLVED, by the Borough of Somerville, County of Somerset, State of New Jersey that the members of the Environmental Commission are hereby affirmed as follows:

Helene Venizelos (12/31/26)
Sande Bencoter (12/31/26)
Geoffrey Keiser (12/31/26)

Larry Cleveland (12/31/25)
Geraldine Desapio (12/31/25)
Timarie Diehl– Alt #2 (12/31/25)

Jeff Lamborn (12/31/24)
Rebecca Reitman-Garafalo (12/31/24)
Jefry Tineo- Alt #1 (12/31/24)

Regular members are 3-year terms and Alternates are 2- year terms

RESOLUTION 24-0116-044

**AUTHORIZING AN AGREEMENT BETWEEN THE BOROUGH
OF SOMERVILLE AND COUNTY OF SOMERSET FOR RECYCLING
PICK-UP FOR THE YEAR OF 2024**

WHEREAS, the County of Somerset has agreed to pick-up recycling based upon the number of households as determined by the County Planning Board at a rate of \$27.00 per household per year.

BE IT RESOLVED, the Borough Council of the Borough of Somerville hereby authorize the Mayor to execute the agreement between Somerset County and its municipalities including Somerville Borough for recycling pick-up at a rate of \$27.00 per household per year.

RESOLUTION 24-0116-045

REQUESTING THAT FDS SOMERVILLE NJ, LLC, PURSUANT TO THE TERMS OF THE GOVERNING BUILD TO SUIT LEASE, AUTHORIZE AND EXECUTE CHANGE ORDER NO. 1 TO THE CONTRACT ENTERED INTO BY FDS SOMERVILLE NJ, LLC WITH DAVID E. HARVEY BUILDERS, INC., WITH CHANGE ORDER NO. 1 PROVIDING FOR THE SUPPLY OF A NEDERMAN VEHICLE EXHAUST SYSTEM TO BE INSTALLED IN THE EMERGENCY SERVICES FACILITY BEING CONSTRUCTED AT 85 – 101 NORTH GASTON AVENUE IN THE BOROUGH OF SOMERVILLE

WHEREAS, 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 in made in conjunction with a redevelopment plan; and

WHEREAS, 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”); and

WHEREAS, 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”); and

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

WHEREAS, 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”); and

WHEREAS, the Redevelopment Agreement requires the Redeveloper to redevelop the Property with an emergency services facility project in accordance with the Redevelopment Plan (the “Project”); and

WHEREAS, 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; and

WHEREAS, 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 (as amended, the “Build Lease”); and

WHEREAS, the Redeveloper entered into a contract with David E. Harvey Builders, Inc. (the “Contractor”) dated June 2, 2022 (the “Construction Contract”) providing for the construction of the Project on the Property by Contractor; and

WHEREAS, the Borough of Somerville Volunteer Fire Department (the “SFD”) had previously committed to supply their current apparatus exhaust extraction system(s) to the new Project; and

WHEREAS, upon detailed evaluation of the current system(s) that were to be provided by SFD for the Project, the SFD has determined that the current installed apparatus exhaust extraction systems in the various firehouses are not in a condition to be reused in the new Project; and

WHEREAS, the SFD had originally in 2022 identified the Cleanair Company Plymovent system as the system to be installed in the new Project; and

WHEREAS, on reexamination of available apparatus exhaust systems, the SFD has determined that the Nederman System is best suited for the needs of the SFD when the commence occupying and using the new emergency services facility; and

WHEREAS, based on this evaluation, and request of the SFD, the Redeveloper has advised that it is required, per Section 5.C of Exhibit A to the Build Lease, that the Borough approve and authorize that certain Change Order No. 1 attached hereto as Attachment I (“Change Order No. 1”), which will result in the need to provide for future amendment of the Build Lease as a result of the increased costs for the Project as set forth in Change Order No. 1 (“CO Costs”) plus, but only in the event that the Borough elects to amortize such costs and include the same in the Annual Rent Schedule pursuant to clause (b) of Section 5.C of Exhibit A to the Build Lease, any additional costs incurred by Redeveloper in connection with the financing of the CO Costs, including without limitation lender costs and fees, legal fees, and additional insurance costs (but not interest) (the “CO Finance Costs”); and

WHEREAS, the Borough Council finds it to be in the best interests of the Borough, the SFD and the Project to authorize and approve Change Order No. 1.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Somerville that the Borough approves and authorizes Change Order No. 1 attached hereto and as presented to the Borough by Redeveloper pursuant to the Build Lease and the Borough requests that Redeveloper approve and execute Change Order No. 1 with Contractor, which results in increased Project costs in the amount of the CO Costs as defined above plus the CO Finance Costs if the Borough elects to amortize the CO Costs, and the method of payment by the Borough of the CO Costs and CO Finance Costs, if applicable, shall be addressed by future amendment of the Build Lease, provided however if no such amendment is entered into by the Borough of Somerville and Redeveloper prior to Substantial Completion, Redeveloper is hereby authorized to elect either method of payment of the CO Costs and CO Finance Costs, if applicable, as set forth in clauses (a) and (b) of Section 5.C of Exhibit A to the Build Lease. For the sake of clarity, this resolution shall constitute the Borough of Somerville's approval of Change Order No. 1 as required under Section 5.C of Exhibit A to the Build Lease.