



Legislation Details (With Text)

File #: 18-1028 **Version:** 1 **Name:** Fourth Amendment to Right of Entry Agreement with PSE&G
Type: Resolution **Status:** Adopted
File created: 6/22/2018 **In control:** Economic and Housing Development
On agenda: 7/11/2018 **Final action:** 7/11/2018

Title: Dept/ Agency: Economic and Housing Development
Action: Ratifying Authorizing Amending
Type of Service: Private Sale/Redevelopment
Purpose: Authorizing Fourth Amendment to Right of Entry Agreement with PSE&G for the Purpose of Conducting Remedial Activities.
Entity Name: Public Service Electric & Gas
Entity Address: 80 Park Place, Newark, New Jersey 07102
Sale Amount: \$n/a
Cost Basis: PSF Negotiated N/A Other:
Assessed Amount:
Appraised Amount:
Contract Period: Five (5) years from date of execution, with the option to extend for 3 additional 5 year terms
Contract Basis: Bid State Vendor Prof. Ser. EUS
 Fair & Open No Reportable Contributions RFP RFQ
 Private Sale Grant Sub-recipient n/a
List of Property:
(Address/Block/Lot/Ward)
20-48 Jersey Street a/k/a Block 171, Lots 41 and 42
3-9 Jersey Street a/k/a Block 172, Lot 31
11-21 Jersey Street a/k/a Block 172, Lots 33 and 35
and portions of Market Street, Raymond Boulevard, Ferry Street, Union Street, Prospect Street, Congress Street, and Jefferson Street and Jersey Street
Additional Information:
Resolution 7Rt adopted September 3, 2003, authorized the City of Newark to enter into a Right of Entry Agreement
Resolution 7Rx adopted August 3, 2005 authorized a First Amended Right of Entry Agreement
Resolution 7Rde(AS) adopted August 1, 2007, authorized a Second Amended Right of Entry Agreement
Resolution 7R3-b adopted July 7, 2010, authorized a Third Amended Right of Entry Agreement

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
7/11/2018	1	Municipal Council	Adopt	Pass

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WHEREAS, the City of Newark is the owner of property known as 20-48 Jersey Street a/k/a Block 171, Lots 41 and 42 which is commonly referred to as the Newark Fire Training Academy, as well as adjoining properties known as 3-9 Jersey Street a/k/a Block 172, Lot 31 and 11-21 Jersey Street a/k/a Block 172, Lots 33 and 35 and has an interest in Market Street, Raymond Boulevard, Ferry Street, Union Street, Prospect Street, Congress Street, Jefferson Street and Jersey Street (hereinafter "Property"); and

WHEREAS, Block 171, Lots 41 and 42, and Block 172, Lots 31, 33, and 35 are anticipated to be developed as part of the next phase of the expansion of Newark Riverfront Park (the "Park"); and

WHEREAS, a portion of the Property is located within the boundary of the former Market Street Gas Works, a former manufactured gas plant (hereinafter "Site"); and

WHEREAS, the New Jersey Department of Environmental Protection ("NJDEP") has entered into a Memorandum of Agreement with PSE&G so that PSE&G will be required to investigate, and, if necessary, remediate in accordance with NJDEP Technical Requirements at N.J.A.C.7:26E et seq. (Technical Requirements), environmental problems relative to historic MGP operations which may be present at or in the vicinity of the Property formerly on the site of the Market Street Gas Works; and

WHEREAS, Resolution of the City of Newark 7Rt adopted September 3, 2003, authorized the City of Newark to enter into a Right of Entry Agreement with PSE&G that, among other things, granted PSE&G a non-exclusive, nontransferable right to enter on, occupy and use Block 171, Lots 41 and 42, for conducting certain activities as may be required by the NJDEP to complete remedial action in accordance with the Technical Requirements for Site Remediation (N.J.A.C 7:26E, et seq.), approved work plans and oversight agreements with NJDEP, for which Grantor and PSE&G executed

the Right of Entry Agreement on or around September 22, 2003; and

WHEREAS, Resolution of the City of Newark 7RXx adopted August 3, 2005 authorized a First Amended Right of Entry Agreement renewing the Agreement for a period of two years, for which the City and PSE&G executed the First Amended Right of Entry Agreement on or around September 1, 2005; and

WHEREAS, Resolution of the City of Newark No. 7Rde (AS) adopted August 1, 2007, authorized a Second Amended Right of Entry Agreement renewing the Agreement for another two years. The City and PSE&G executed the Second Amended Right of Entry Agreement on or around August 31, 2007; and

WHEREAS, Resolution of the City of Newark 7R3-b adopted July 7, 2010, authorized a Third Amended Right of Entry Agreement which expanded the Right of Entry to include 11-21 Jersey Street a/k/a Block 172, Lots 33 and 35, and Market Street, Raymond Boulevard, Ferry Street, Union Street, Prospect Street, Congress Street, Jefferson Street and Jersey Street; and

WHEREAS, the Remedial Activities as defined in the Agreement are expected to exceed the expiration date of the Right of Entry; and

WHEREAS, PSE&G has requested that the term of the Right of Entry be extended for an additional five (5) years, in order to allow for the continuation of the Remedial Activities, as well as the replacement of a century old, degraded cast iron pipe which runs beneath a portion of the Property, and continued monitoring of the groundwater wells located on portions of the Property; and

WHEREAS, PSE&G has submitted to NJDEP for review and approval a Remedial Action Work Plan ("RAWP") for the properties comprising the former Market Street Gas Works Area A and Area B, including those properties designated above; and

WHEREAS, the City finds that amending the Right of Entry to extend the activities and term will further the environmental remediation of the area and further the redevelopment of the Property into the Park; and

WHEREAS, in consideration for this Right of Entry PSE&G has granted the City of Newark an easement through the PSE&G owned property located at Block 171, Lot 11, abutting the Passaic River, and is currently negotiating with the City for the fee simple conveyance of additional property necessary to expand the Park.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Municipal Council hereby authorizes the Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development, to execute the Fourth Amendment to the Right of Entry Agreement, which shall extend the Right of Entry granted to PSE&G for Block 171, Lots 41 and 42 for a period of five (5) years renewable by agreement of both parties for three (3) additional terms of five (5) years each.

2. The Municipal Council hereby authorizes the Mayor and/or his designee, the Acting

Director of the Department of Economic and Housing Development, to execute the Fourth Amendment to the Right of Entry Agreement, which shall extend the Right of Entry to Block 172, Lots 31,33 and 35, and Market Street, Raymond Boulevard, Ferry Street, Union Street, Prospect Street, Congress Street, Jefferson Street and Jersey Street for a period of five (5) years renewable by agreement of both parties for three (3) additional terms of five (5) years each.

3. The Municipal Council hereby authorizes the Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development, to execute Deed Notices and/or amendments to Deed Notices if necessary for the designated properties and agrees that such consent will not be unreasonably withheld or delayed. PSE&G shall perform any and all obligations under the Deed Notices at its own cost and expense, including the filing of biennial certifications with costs associated therewith and the maintenance of engineering controls.

4. PSE&G shall encourage its contractors to pursue local hire and minority contractors.

5. PSE&G shall indemnify and hold harmless the City from and against any claim, demand, suit or action and liability, loss damage, or judgment which may arise there from, as well as against any fees, costs, charges, or expenses which the City incurs in the defense of any such claim, suit, action, or similar such demand made or filed by any third party against the Grantor to the extent same arises out of or relates to the performance of any tasks associated with the conduct of Remedial Activities at the Property.

6. Except as modified herein, all other provisions of the Agreement shall remain in full force and effect.

7. A fully executed copy of the Fourth Amendment to the Right of Entry Agreement and Deed Notices and/or amendments to Deed Notices shall be placed on file in the City Clerk's Office by the Acting Director of the Department of Economic and Housing Development.

STATEMENT

This Resolution authorizes the City of Newark to enter into a Fourth Amended Right of Entry Agreement and to execute Deed Notices or Amended Deed Notices as necessary with PSE&G for the property located at 20-48 Jersey Street A/K/A Tax Block 171, Lots 41 & 42, as well as adjoining properties known as 3-9 Jersey Street a/k/a Block 172, Lot 31, 11-21 Jersey Street a/k/a Block 172, Lots 33 and 35, and Market Street, Raymond Boulevard, Ferry Street, Union Street, Prospect Street, Congress Street, Jefferson Street and Jersey Street for the purpose of conducting Remedial Activities in furtherance of the redevelopment of the Site. The Agreement shall be effective immediately upon execution and shall be for a term of five (5) years.