



Legislation Details (With Text)

File #: 23-1826 **Version:** 1 **Name:** PSE&G Remediation Agreement
Type: Resolution **Status:** Adopted
File created: 11/20/2023 **In control:** Economic and Housing Development
On agenda: 12/6/2023 **Final action:** 12/6/2023

Title: Dept/ Agency: Economic and Housing Development
Action: () Ratifying (X) Authorizing () Amending
Type of Service: Remediation Agreement and Related Documents
Purpose: To allow PSE&G to access portions of Raymond Boulevard, Market Street, Prospect Street, and Congress Street to address manufactured Gas Plant Related Contaminants in soils in connection with PSE&G’s remediation of former Market Street Gas Works Operation Area in Newark, New Jersey.
Entity Name: PSE&G
Entity Address: 80 Park Plaza, Newark, New Jersey 07102
Contract Amount: \$0.00
Funding Source: Not Applicable
Contract Period: Until completion of remedial activities as determined by the NJDEP or PSE&G’s Licensed Site Remediation Professionals.
Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS
() Fair & Open () No Reportable Contributions () RFP () RFQ
() Private Sale () Grant () Sub-recipient (X) n/a
Location of Property:
(Address/Block/Lot/Ward)
Approximately 2.55 acres consisting of portions of Raymond Boulevard, Market Street, Prospect Street and Congress Street /East Ward
Additional Information:

Sponsors: Council of the Whole

Indexes:

Code sections:

| Date | Ver. | Action By | Action | Result |
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| 12/6/2023 | 1 | Municipal Council | | |

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Additional Information:

WHEREAS, the City of Newark (the “City”) is the owner of the municipal streets known as Raymond Boulevard, Market Street, Prospect Street and Congress Street in the City of Newark, County of Essex, State of New Jersey (collectively, the “Property”); and

WHEREAS, the Property is located in the vicinity of the former Market Street Gas Works, a former manufactured gas plant (“MGP”) (the “Former Market Street MGP Site”); and

WHEREAS, Public Service Electric and Gas Company (“PSE&G”) is the Person Responsible for Conducting the Remediation (“PRCR”) of the Former Market Street MGP Site; and

WHEREAS, PSE&G is undertaking the investigation and remediation of MGP-related contamination caused by the Former Market Street MGP Site (the “MGP Contamination”) at and in the vicinity of the Former Market Street MGP Site pursuant to applicable law and under New Jersey Department of Environmental Protection (the “NJDEP”) Program Interest No. 214698 (“the Remedial Activities”); and

WHEREAS, PSE&G has identified MGP Contamination at the Property, specifically within portions of Raymond Boulevard, Market Street, Prospect Street and Congress Street, which have been identified as the Streets Area of Concern (“Streets AOC”) for the Former Market Street MGP Site as depicted on Attachment A hereto; and

WHEREAS, PSE&G retained Ken Haduch, a New Jersey Licensed Site Remediation Professional (“LSRP”) (LSRP License No. 668780), to oversee the conduct of the Remedial Activities for the Streets AOC at the Property, and the LSRP has approved a remedial action that will result in soil contamination remaining on the Property in concentrations that do not allow for the unrestricted use of the Property and which requires the use of engineering and institutional controls as such are defined by the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-1.3, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E-1.8; and

WHEREAS, PSE&G seeks and requires access to the Property to complete the Remedial Activities for the Streets AOC in accordance with the December 29, 2020 Remedial Action Workplan (“RAWP”) submitted to the NJDEP, as such may be amended or supplemented by PSE&G’s LSRP or the NJDEP; and

WHEREAS, subject to the terms and conditions of a Remediation Agreement and Exhibits thereto, included in Attachment B hereto, the City agrees to grant PSE&G, and its employees, agents, contractors, subcontractors and consultants (the “PSE&G Parties”), access to the Property to conduct and complete the Remedial Activities for the Streets AOC, and the City consents to the use of institutional and engineering controls at the Property as such are more particularly set forth in this Agreement; and

WHEREAS, in accordance with N.J.A.C. 7:26C-7.2(b)(2) and the Remediation Agreement, PSE&G has prepared Notices in Lieu of Deed Notice, copies of which are included in **Exhibit B** to the Remediation Agreement, which document the required engineering and institutional controls at

the Property; and

WHEREAS, a Soil Remedial Action Permit (“RAP”) from the NJDEP is required to memorialize the operation, maintenance and monitoring required by PSE&G and the City for the Notices in Lieu of Deed Notice and engineering controls; and

WHEREAS, PSE&G will be responsible for permit compliance under the RAP and for posting any required financial assurance required thereby; and

WHEREAS, a draft of the Soil RAP application, which will be completed and submitted to NJDEP upon implementation of the Remedial Activities for the Streets AOC at the Property, is included in Attachment C hereto; and

WHEREAS, consistent with its current obligations, the Remediation Agreement confirms that the City will continue to have responsibility for all day-to-day operation and maintenance of the Property, including all patching, paving, repaving, grading, clearing, cleaning, curbing, sweeping and striping of all asphalt paved and concrete covered surfaces; however the City shall have no responsibility for the maintenance of any sheet piling installed by PSE&G at or adjacent to the Property; and

WHEREAS, the Remediation Agreement obligates PSE&G indemnify, defend and hold harmless the City from and against any claim, demand, suit or action and liability, loss, damage, penalty, fee, cost or judgment imposed upon, incurred by or asserted against the City and caused by PSE&G’s conduct of the Remedial Activities at the Property, and obligates PSE&G reimburse the City for all necessary and reasonable incremental costs that the City may incur in connection with the City’s conduct of utility work in the restricted area identified in the Notices in Lieu of Deed Notice; and

WHEREAS, it is in the best interests of the citizens of the City of Newark to agree to the use restriction(s) and maintenance and monitoring requirements on the Property and to execute the Remediation Agreement, Notices in Lieu of Deed Notice, RAP Application and any related documents.

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

1. The Deputy Mayor/Director of the Department of Economic and Housing Development, is authorized to execute the Remediation Agreement, Notices in Lieu of Deed Notice, and the Soil RAP Application, in the form substantially as set forth in the Attachments B and C hereto, including any related documents to accomplish the intent of this resolution.
2. The use restrictions on the Property detailed in the Notices in Lieu of Deed Notice and Soil RAP will be honored.
3. Any operation, maintenance, and monitoring tasks assigned to the City of Newark in the Remediation Agreement, Notices in Lieu of Deed Notice, and/or Soil RAP will be performed in accordance with the Soil RAP and applicable statutes and requirements.
4. The Deputy Mayor/Director of the Department of Economic and Housing Development, shall file a copy of the executed Remediation Agreement, Notices in Lieu of Deed Notice, and the Soil RAP

Application with the Office of the City Clerk.

5. This Resolution shall take effect immediately.

STATEMENT

This Resolution authorizes the Deputy Mayor/Director of the Department of Economic and Housing Development, to execute a Remediation Agreement with PSE&G to allow PSE&G to access Raymond Boulevard, Market Street, Prospect Street, and Congress Street to implement a remedial action within portions of those City streets in connection with PSE&G's remediation of the Former Market Street MGP Site. The approved remediation to be implemented by PSE&G will allow soil contamination to remain encapsulated beneath the City streets at concentrations that do not allow for the unrestricted use of the City streets and which requires the use of engineering and institutional controls as such are defined by the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-1.3, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E-1.8;I, including Notices in Lieu of Deed Notice and a Soil Remedial Action Permit. Accordingly, this Resolution also allows the Deputy Mayor/Director of the Department of Economic and Housing Development, to execute a Notice in Lieu of Deed Notice for each of those City streets and a Soil Remedial Action Permit application.