



Legislation Text

File #: 23-1077, Version: 1

Dept/ Agency: Economic and Housing Development

Action: () Ratifying (X) Authorizing () Amending

Type of Service: Execute Deed Notice for Block 614, Lot 67

Purpose: Authorizing Execution and Recordation of Deed Notice in Connection with Certain Remediation Conducted by Honeywell at City-Owned Property in the Riverside Industrial Park Superfund Site

Location of Property: (Address/Block/Lot/Ward)

1682-1690 McCarter Highway/Block 614/Lot 67/North Ward

Additional Information:

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, as amended and supplemented (the "LRHL" or "Act") authorizes municipalities to participate in the redevelopment and improvement of areas that are in need of redevelopment or rehabilitation; and

WHEREAS, in order to stimulate the reinvigoration of the City, by Resolution 7Rdo (A.S.) adopted by the Municipal Council on June 15, 2005, the entire City of Newark was designated as an area in need of rehabilitation pursuant to the Act; and

WHEREAS, by Ordinance 6SFa (S) dated August 17, 2005, the Municipal Council of the City of Newark (the "Municipal Council") adopted "An Ordinance Amending Ordinance 6SFd Dated June 6, 2002, To Approve The Third Amendment To The North Ward Redevelopment Plan And The Feasibility of Relocation For Various City Owned Parcels Located Throughout The Entire North Ward" (the "Redevelopment Plan"), which provided for the facilitation of the redevelopment of certain City-owned parcels in the North Ward for residential, commercial, and industrial use; and

WHEREAS, said Redevelopment Plan complies with the requirements of all applicable State and Federal statutes and regulations promulgated thereunder; and is applicable to the development and redevelopment of City-owned properties; and

WHEREAS, pursuant to N.J.S.A. 40A: 12A-8(f), the City is authorized to arrange or contract with redevelopers for the planning, replanning, construction or undertaking of any redevelopment project; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-8(g), the City may "convey property ... without public bidding and at such prices and upon such terms as it deems reasonable"; and

WHEREAS, the City is the owner of that certain parcel of real property shown on the official tax map of the City of Newark as Block 674, Lots 3, 4, and 5; Block 725, Lots 12, and 16; and Block 614, Lots 58, 61, 63, 64, 67, and 68, located in the North Ward of the City (hereinafter, the "City Property"); and

WHEREAS, the City Property was previously owned by Patton Paint Company, which merged into the Pittsburgh Plate Glass Company, which later changed its name to PPG Industries, Inc.; and

WHEREAS, the City involuntarily acquired title to the City Property as a result of tax lien

foreclosures; and

WHEREAS, in May 2013, a portion of the City Property, more specifically Block 614, Lots 58, 61, 63, 64 and 68 (“Former Frey Industries Lots”) and Block 614, Lot 67 (collectively, the “City Superfund Lots”), was listed on the National Priorities List of the United States Environmental Protection Agency (the “EPA”) in accordance with the Comprehensive Environmental Response Compensation and Liabilities Act (“CERCLA”) and is part of the Riverside Industrial Park Superfund Site (“RIPSS”); and

WHEREAS, on May 22, 2017, as a result of response actions by the EPA regarding the RIPSS, the EPA has issued a Notice of Potential Liability and Demand for Reimbursement of Costs to the City (“Notice of Claim”); and

WHEREAS, the City intends to have its chosen redeveloper (the “Redeveloper”) address the City’s remedial obligations, if any, at the City Superfund Lots with the EPA; and

WHEREAS, Baron Blakeslee, Inc. (“BBI”) was a wholly owned subsidiary of Allied Signal, which was acquired by Honeywell International (“Honeywell”); and

WHEREAS, for approximately two (2) years during the late 1980s, BBI operated as a subtenant at Block 614, Lots 61, 63, 64, small portion of 67 (previously owned by Celcor Associates), and 68 (collectively, the “BBI Leased Lots”); and

WHEREAS, upon BBI’s cessation of operations in the late 1980s, BBI triggered the New Jersey Environmental Cleanup Responsibility Act (“ECRA”; later replaced by the Industrial Site Recovery Act (“ISRA”)); and

WHEREAS, Honeywell is in the process of closing out BBI’s ECRA/ISRA obligations at the BBI Leased Lots; and

WHEREAS, the engineering controls at Block 614, Lots 61, 63, 67 and 68, as utilized by Honeywell, consist of the existing building slabs and asphalt pavement; and

WHEREAS, Honeywell installed asphalt pavement in November 2004, which covers the entirety of Block 614, Lot 68, and a small portion, less than 40’ x 50’ of Block 614, Lot 67; and

WHEREAS, NJDEP formally approved the Deed Notice remedy for Block 614, Lots 61, 63, 67 and 68, by way of letter, dated January 23, 2008; and

WHEREAS, the Deed Notice for Block 614, Lots 61, 63, and 68 was recorded in the Essex County land records on July 29, 2008; and

WHEREAS, once the Deed Notice for Block 614, Lot 67 (the “Lot 67 Deed Notice”) is executed by the City and recorded by Honeywell in the Essex County land records, Honeywell will apply to the NJDEP for a Soil Remedial Action Permit (“RAP”) and remain as the permittee responsible for RAP compliance; and

WHEREAS, Honeywell has established a letter of credit currently in the amount of \$154,020, which will serve as financial assurance for the Soil RAP; and

WHEREAS, Honeywell will continue to be responsible for financial assurances, and the City’s only obligation will be to sign certain RAP-related forms as the co-permittee/property owner, but not as the permittee with primary responsibility for RAP compliance (which will be Honeywell); and

WHEREAS, as more specifically set forth in the proposed Lot 67 Deed Notice attached hereto

as **Exhibit A**, the soils have been remediated to a restricted use standard as permitted by applicable environmental laws, rules and regulations, including the Administrative Rules for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-1, et seq. (“ARRCS”), and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E-1, et seq. (“Technical Rules”), such that certain permissible levels of contaminants remain in the soils as described in the Lot 67 Deed Notice and an engineering control in the form of a cap has been implemented as a permanent environmental remedy in order to protect public health and the environment; and

WHEREAS, due to the remaining permissible levels of contaminants upon the subject portion of Block 614, Lot 67, certain uses of the property are currently prohibited, including residential, however, the property may continue to be used for non-residential purposes pursuant to the Technical Rules; and

WHEREAS, as stated in the Lot 67 Deed Notice, the objective of the institutional control is to prevent direct contact with any permissibly remaining contaminated soils; and

WHEREAS, the Lot 67 Deed Notice, is required by the ARRCS to be recorded by the Essex County Register’s office; and

WHEREAS, in order to effectuate the environmental remediation of the Block 614, Lot 67, and to protect public health and the environment, the City wishes to execute and record the Lot 67 Deed Notice, in the form attached hereto as **Exhibit A**, with Honeywell to record the Lot 67 Deed Notice in the Essex County Register’s office;

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

1. The Mayor and/or the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to execute the Lot 67 Deed Notice in the form attached hereto as **Exhibit A** as to that portion of the Riverside Industrial Park Superfund Site which is comprised of the City-owned parcel identified as Block 614, Lot 67, and to take all necessary steps to effectuate the recording of the Deed Notice by Honeywell.
2. A copy of the fully executed and recorded Lot 67 Deed Notice shall be filed with the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.

STATEMENT

This resolution authorizes the execution and recording of a Deed Notice as to that portion of the Riverside Industrial Park Superfund Site which is comprised of the City-owned parcel identified as Block 614, Lot 67, in order to protect public health and the environment and to prevent direct contact with any of the permissibly remaining contaminated soils upon the Property, in the form attached hereto as **Exhibit A**.

