



## Legislation Text

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File #: 24-0362, Version: 1

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**Dept/ Agency:** Economic & Housing Development

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

**Type of Service:** Execute Notice in Lieu of Deed Notice ("NILDN")

**Purpose:** Authorizing the execution and recordation of NILDN in connection with certain remediation conducted by PSE&G in furtherance of the development of the McCarter Switching Station.

**Location of Property:** The Property is comprised of a City-owned sidewalk abutting Littleton Avenue and a portion of Littleton Avenue; approximately 130 feet long by 26 feet wide (0.08 acres), as more specifically described in Exhibit A, attached

**(Address/Block/Lot/Ward)**

Not Applicable

**Additional Information:**

The Property abuts Block 1830, Lots 1.01 and 10.01 on the Official Tax Map of the City of Newark.

**WHEREAS**, Public Service Electric and Gas Company ("PSE&G") proposed the construction of a switching station on property identified on the tax map of the City of Newark (the "City") as Block 1830, portions of Lots formerly identified as 10 and 1, now identified as Lots 10.01 and 1.01, more commonly known as 29-53 Eleventh Avenue and 13-45 Littleton Avenue (the "PSEG Property"); and

**WHEREAS**, on February 27, 2014, PSE&G filed an appeal petition entitled "In the Matter of the Petition of Public Service Electric and Gas Company Pursuant to N.J.S.A. 40:55D-19 from a Decision of the City of Newark Zoning Board of Adjustment Denying an Application for Preliminary and Final Site Plan Approval and Variances Necessary for the Construction of A 230/26/13kV Switching Station (the "McCarter Switching Station"), with the New Jersey Board of Public Utilities (the "BPU") to appeal the Zoning Board's denial of the Application (the "Litigation"); and

**WHEREAS**, the BPU Litigation was resolved by a Settlement Agreement by and among the City, the Urban League of Essex County, the Fairmount Heights Neighborhood Association, and PSE&G which was approved by Administrative Law Judge Gail M. Cookson by an Initial Decision dated December 1, 2014 which was subsequently approved by the New Jersey Board of Public Utilities on January 21, 2015 and was approved by the City by Resolution 7R7-b(S) adopted on November 13, 2014 (the "Settlement Agreement"); and

**WHEREAS**, the Settlement Agreement provides in part that PSE&G is permitted to build the McCarter Switching Station, that PSE&G will construct a storm water facility to service the entire block and that the remainder of the PSEG Property not needed for the McCarter Switching Station will be donated to the City. The Settlement Agreement provides in part that the parties will cooperate with, and support PSE&G in their efforts to complete these actions; and

**WHEREAS**, the Settlement Agreement further requires, among other things, that PSE&G will undertake the environmental remediation of the PSEG Property (the "Remediation Work") in

accordance with the scope of work and in satisfaction of the environmental standards set forth as Exhibit B of the Settlement Agreement; and

**WHEREAS**, the soils upon the PSEG Property required that an environmental remediation be conducted and as such, PSEG retained a Licensed Site Remediation Professional (“LSRP”) in order to oversee the Remediation Work; and

**WHEREAS**, the said Remediation Work has been completed on property controlled by the City comprised of a sidewalk abutting Littleton Avenue and a portion of Littleton Avenue; approximately 130 feet long by 26 feet wide (0.08 acres) (the “Property”), as more particularly described in Exhibit A; and

**WHEREAS**, as more specifically set forth in the proposed Notice in Lieu of Deed Notice attached hereto as Exhibit A (the “NILDN”), the Property has 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 NILDN; and

**WHEREAS**, due to the remaining permissible levels of contaminants upon the Property, certain uses of the Property are currently prohibited, including residential, however, the Property may continue to be used as a public transportation thoroughfare, pursuant to the Technical Rules; and

**WHEREAS**, as stated in the NILDN, the objective of the NILDN is to limit contact with soils contaminated above Residential Direct Contact Soil Remediation Standards, but below Non-Residential Direct Contact Soil Remediation Standards, to allow for continued direct contact exposure protection; and

**WHEREAS**, the LSRP has approved the NILDN as an institutional control for the Property in order to protect public health and the environment; and

**WHEREAS**, the NILDN 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 Property and to protect public health and the environment, the City wishes to execute and record the NILDN as to the Property, in the form attached hereto as Exhibit A, with 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 of the city of Newark and/or the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to execute the NILDN, including all related documents required by NJDEP, as to the Property, and to take all necessary steps to effectuate the recording of the NILDN in the form attached hereto as Exhibit A.

2. A copy of the fully executed and recorded NILDN shall be filed with the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.
3. The Mayor of the City of Newark and/or the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to take all such necessary steps to effectuate the purposes authorized by this Resolution.

### **STATEMENT**

This Resolution authorizes execution and recording of a Notice in Lieu of Deed Notice as to a City-owned sidewalk abutting Littleton Avenue and a portion of Littleton Avenue, in order to protect public health and the environment and to prevent direct contact with any of the permissibly remaining contaminated soils encapsulated beneath the sidewalk and Littleton Avenue, in the form attached hereto as Exhibit A.