



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Details (With Text)

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Title: Authority to grant a 50-year non-exclusive easement to Peoples Gas Light and Coke Company for continued operation and maintenance of a natural gas pipeline and to remediate District property located west of Pulaski Road and North of the Main Channel in Chicago, Illinois known as Main Channel Parcels 40.07, 40.04 and 40.02 and to settle The Metropolitan Water Reclamation District of Greater Chicago v. Peoples Gas Light and Coke Company, Case No. 18 CH 12041, currently pending in the Circuit Court of Cook County, Illinois (As Revised)(Deferred from the October 15, 2020 Board Meeting)

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Attachments: 1. RE - Peoples' Gas Crawford, easement and settlement - Aerial.pdf

Date	Ver.	Action By	Action	Result
11/5/2020	1	Board of Commissioners	Approved	Pass
10/15/2020	1	Board of Commissioners	Deferred	

TRANSMITTAL LETTER FOR BOARD MEETING OF NOVEMBER 5, 2020

COMMITTEE ON REAL ESTATE

Mr. Brian A. Perkovich, Executive Director

Authority to grant a 50-year non-exclusive easement to Peoples Gas Light and Coke Company for continued operation and maintenance of a natural gas pipeline and to remediate District property located west of Pulaski Road and North of the Main Channel in Chicago, Illinois known as Main Channel Parcels 40.07, 40.04 and 40.02 and to settle The Metropolitan Water Reclamation District of Greater Chicago v. Peoples Gas Light and Coke Company, Case No. 18 CH 12041, currently pending in the Circuit Court of Cook County, Illinois (As Revised)(Deferred from the October 15, 2020 Board Meeting)

Dear Sir:

The Peoples Gas Light and Coke Company ("Peoples Gas") leased 27.38 acres of District land located west of Pulaski Road and north of the Main Channel in Chicago known as Main Channel Parcel 40.04 ("Parcel 40.04") and Main Channel Parcel 40.07 ("Parcel 40.07"). The lease commenced in 1916 and expired on January 31, 2015. During the first half of the lease term, Peoples Gas used both parcels for operations ancillary to its adjacent Manufactured Gas Plant ("Crawford Station"). Thereafter, Peoples Gas operated a natural gas pipeline and appurtenances related thereto only on Parcel 40.07. The lease was later amended to account for this change in use and released Parcel 40.04 (comprising 17.67 acres) from the leasehold, thereby reducing the size of the leased premises to only Parcel 40.07 comprising 9.71 acres.

In addition to its use of Parcels 40.04 and 40.07, Peoples Gas historically leased 4.46 acres of District land located east of Cicero Avenue and north of the Main Channel known as Main Channel Parcel 40.02 ("Parcel

40.02”) for the same use and pipeline. That lease expired on October 31, 2016. Parcel 40.02 is now leased to ExxonMobil Corporation, but Peoples Gas’ pipeline still runs under the northern portion of Parcel 40.02.

Upon expiration of the leases, the Board authorized a series of permits to Peoples Gas to allow for the continued operation of the existing pipeline on Parcels 40.02 and 40.07 and for environmental remediation and testing on Parcels 40.02, 40.04 and 40.07 and in the Main Channel. The last permit and lease for the pipeline expired in October 2016. One of these permits was issued at the request of the United States Environmental Protection Agency (USEPA) to facilitate Peoples Gas’ obligations under a 2007 Consent Decree for Crawford Station and the surrounding area including Parcels 40.04 and 40.07 (Parcel 40.02 is not part of the Consent Decree). The District issued these permits with the understanding that after the environmental testing was completed, the parties would enter into a long-term occupancy agreement and with a comprehensive environmental remediation plan.

After Peoples Gas refused to enter into any long-term occupancy agreement or a satisfactory comprehensive environmental remediation plan, the District filed a declaratory judgment action against Peoples Gas in the Circuit Court of Cook County in a matter entitled The Metropolitan Water Reclamation District of Greater Chicago v. Peoples Gas Light and Coke Company, Case No. 18 CH 12041 to ensure that District land is remediated in accordance with the lease terms. In its Complaint, the District asked the Court to declare the parties’ rights under the lease agreements and sought damages for trespass, nuisance, and a holdover tenancy.

The parties have engaged in extensive settlement negotiations. These negotiations have resulted in a proposed resolution of both the occupancy and remediation issues on Parcels 40.02, 40.04, and 40.07. The General Counsel finds the proposed settlement to be reasonable and acceptable. This settlement avoids the cost and uncertainty of trial and ends the long-term unauthorized use of District land and presence of environmental contamination on District land.

Under the proposed settlement, Peoples Gas will pay \$824,068.32 to the District for its holdover use of Parcels 40.02, 40.04 and 40.07 to operate its pipeline. Next, Peoples Gas requests a 50-year easement for continued operation and maintenance of this pipeline to commence retroactively as of November 1, 2016. The Easement will initially encompass all of Parcels 40.04 and 40.07 and a portion of 40.02, comprising approximately 28.18 acres. The initial annual easement fee based upon a fair market value appraisal is \$552,384.36.

Within this initial easement area, Peoples Gas has agreed to remediate Parcels 40.04 and 40.07 to residential levels and in accordance with the Consent Decree. Parcel 40.02 requires no remediation. Once the remediation is complete and is deemed acceptable by the District’s Engineer of Site Remediation, the District will release all but the portion of the easement that is necessary for Peoples Gas’ continued operation and maintenance of the pipeline. The annual easement fee will be calculated on a pro-rata basis for this reduced easement acreage. In exchange for the foregoing, the District will dismiss the litigation.

Therefore, it is requested that the Executive Director recommend to the Board of Commissioners that it adopt the following orders:

1. Authority to grant a 50-year non-exclusive easement to Peoples Gas Light and Coke Company to commence retroactively as of November 1, 2016 for continued operation and maintenance of a natural gas pipeline and to remediate District property located west of Pulaski Road and North of the Main Channel in Chicago, Illinois known as Main Channel Parcels 40.07, 40.04 and 40.02 for an initial annual easement fee of \$552,384.36;
2. Authority to settle The Metropolitan Water Reclamation District of Greater Chicago v. Peoples Gas Light and Coke Company, Case No. 18 CH 12041, currently pending in the Circuit Court of Cook County, Illinois in the amount of \$824,068.32 for its holdover tenancy on Parcels 40.02, 40.04 and

40.07; and

3. Authority and Direction for the General Counsel to execute and deliver all other documents and take such other actions as may be necessary to effectuate said easement grant and settlement.

Requested, Susan T. Morakalis, General Counsel STM:EMA:vp

Recommended, Brian A. Perkovich, Executive Director

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for November 5, 2020

Attachment