

Wilmington, Delaware
June 20, 2019

#4673

WHEREAS, the State of Delaware, Department of Transportation (“DelDOT”) is the

Sponsor:

owner of real property located in Wilmington, Delaware, known as the I-95 Right-of-Way;

**Council
Member**

and

Harlee

WHEREAS, DelDOT desires to donate by custodial agreement (which is attached, in

Co-Sponsor:

substantial form, as Exhibit A), a portion of the of the I-95 Right-of-Way, as fully described

**Council
Member**

and depicted in Exhibit A, (“Property”) to the City of Wilmington in order for the City to

McCoy

construct a Skate Park Recreation Facility; and

WHEREAS, the City of Wilmington is willing to accept a donation of the Property from DelDOT in order to construct a Skate Park Recreation Facility.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Council, acting pursuant to Wilm. C. (Charter) § 8-204, hereby approves the acceptance by the City of Wilmington of the Property from the State of Delaware, Department of Transportation, and authorizes the Department of Parks and Recreation to take all actions necessary, including the payment of any recording fees, to finalize the transfer of the Property to the City of Wilmington.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution authorizes the Department of Parks and Recreation to accept the donation of a portion of the I-95 Right-of-Way, as fully described and depicted in Exhibit

A, from the State of Delaware, Department of Transportation, in order to construct a Skate Park Recreation Facility.

EXHIBIT A

Tax Parcel No.: Right of Way-
NO TAX PARCEL NUMBER
ASSIGNED

Prepared by:
Delaware Department of Transportation
P. O. Box 778
Dover, DE 19903

Return to:

CUSTODIAL RESOLUTION

FOR TRANSFER OF CERTAIN LANDS
FROM
THE DEPARTMENT OF TRANSPORTATION
TO
THE CITY OF WILMINGTON

This Custodial Resolution is made and entered into as of this ____ day of _____ 2019, by and between the **State of Delaware, Department of Transportation** (hereinafter referred to as “**DelDOT**”), a Delaware state agency, and the **City of Wilmington** (hereinafter referred to as “**City**”), a Delaware governmental entity.

WHEREAS, DELDOT is responsible for a tract of land identified as Excess Public Right of Way in the State of Delaware, as identified on the attached Exhibit A (hereinafter “DelDOT’s Land”); and

WHEREAS, DelDOT’s Land is situate in the City of Wilmington, New Castle County and State of Delaware which lands were acquired for transportation purposes which, as of the date of this Custodial Resolution, are not presently required for a transportation project; and

WHEREAS, DelDOT has agreed to convey to the City said lands described on Exhibit A, attached hereto and made a part hereof, for the public purpose of a skate park recreation facility open to the public; and

WHEREAS, DelDOT believes that such conveyance can occur while still retaining such lands that will meet DelDOT’s transportation needs; and

WHEREAS, DelDOT has no present or future plans for the utilization of the portion of DelDOT’s Land to be conveyed to the City; and

WHEREAS, this conveyance is made in accordance with the provisions set forth in 17 *Del.C.* §137(b)(7).

NOW THEREFORE, BE IT RESOLVED that for and in consideration of the sum of One Dollar (\$1.00) paid from the City to DelDOT, receipt whereof is hereby acknowledged, DelDOT hereby surrenders and transfers to the City any and all of its custodial interests in that portion of DelDOT's Land, subject to the following conditions:

1. The transfer is subject to all matters of record to the extent such matters are valid and enforceable.
2. Any existing easements or rights-of-way for utilities will transfer with the Custodial Resolution and will be accepted by the City.
3. The City shall assume all responsibilities and liabilities for all matters arising following the transfer of custody of that portion of DelDOT's Land described herein to the City.
4. **Restrictions on Use:** In order to accomplish, safeguard, and promote the purposes of this Custodial Resolution, DelDOT, in consultation with the City, hereby declares and covenants that the following restrictions are hereby imposed and shall apply forever in that portion of DelDOT Land to be transferred:
 - (a) In the event that the City does not commence construction activities for a skate park recreation facility on or before _____, then all rights to the DelDOT Land, including possession and use, shall revert back to DelDOT. In that event, the City agrees to cooperate by all means reasonably necessary to accomplish said reversion of the DelDOT Land to DelDOT including, but not limited to, execution of any and all documents necessary to accomplish said reversion.
 - (b) Any building, structure, improvement, or facility to be constructed on the DelDOT Land shall comply with all applicable laws, regulations, codes, and/or ordinances.
 - (c) No dumping, depositing, abandoning, discharging, or releasing of any gaseous, liquid, solid, or hazardous waste, substances, materials of whatever nature on, in, over or under the site or into surface or ground water of the site shall occur, except as permitted and required by law.
5. **Permitted Uses:** DelDOT and the City hereby declare and covenant that a skate park recreation facility maintained by or on behalf of the City shall be the only use permitted on the DelDOT Land, subject to the limitations contained herein, and this requirement and restriction shall apply forever to the use and enjoyment of the site. In the event that the City shall ever, at any time, convey its interests in the premises to any other entity or permit the premises to be used in a manner inconsistent with this Custodial Resolution, then all rights to the DelDOT Land, including possession and use, shall revert back to DelDOT. In that event, the City agrees to cooperate by all means reasonably necessary to accomplish said reversion of the DelDOT Land to DelDOT including, but not limited to, execution of any and all documents necessary to accomplish said reversion.
 - (a) Skate park recreation facilities open to the public.

6. **Review Process:** Should the City plan any ground disturbing activity which is not covered by the Permitted Uses defined above, the the City shall consult with the Delaware State Historic Preservation Office (hereinafter referred to as “SHPO”), and DelDOT prior to proceeding with any such work. SHPO may require changes to the location, methods, materials, and/or extent of such work, and/or may require the City conduct an archaeological survey to first determine the presence of any archaeological sites. If an archaeological survey is required, the review process shall be carried out in a manner in keeping with the steps defined by the implementing regulations (36 CFR Part 800) of Section 106 of the National Historic Preservation Act (16 U.S.C Part 470). All archaeological work must meet federal and state standards and guidelines, and must be carried out by or under the direct supervision of persons meeting or exceeding the Secretary of the Interior’s Professional Qualifications for archaeology. DelDOT shall participate in the review process.

Signature page to follow.

In Witness whereof, the parties have hereunto set their hands and seals as of the date first above written.

Attest:

DEPARTMENT OF TRANSPORTATION

(SEAL)

Name: Jennifer Cohan
Title: Secretary

STATE OF DELAWARE)
)ss.
COUNTY OF KENT)

BE IT REMEMBERED, that on this _____ day of _____, 2019, personally came before me, the Subscriber, a Notary Public in and for the State and County aforesaid Jennifer Cohan, Secretary of the Department of Transportation, party to this Custodial Resolution, and acknowledged this Custodial Resolution to be her act and deed and the act and deed of said state agency.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Notary Public

WITNESS:

THE CITY OF WILMINGTON

(SEAL)

Name:

Title:

STATE OF DELAWARE)

)ss.

COUNTY OF _____)

BE IT REMEMBERED, that on this _____ day of _____, 2019, personally came before me, the Subscriber, a Notary Public in and for the State and County aforesaid _____, _____ of the City of Wilmington, party to this Custodial Resolution, and acknowledged this Custodial Resolution to be his/her act and deed and the act and deed of the City of Wilmington.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Notary Public

Exhibit A
Description of DelDOT Land

DESCRIPTION OF PROPOSED SKATE PARK

PORTION OF LAND LOCATED IN THE I-95 RIGHT OF WAY

CITY OF WILMINGTON, DELAWARE

BEGINNING at the intersection of the southwesterly right of way of Lower Linden Street, a 35 foot wide right of way, and the southeasterly right of way of Liberty Street, a 40 foot wide right of way, said intersection being a distant North $63^{\circ}00'37''$ East 17.50 feet to a point in the center line of Lower Linden Street and North $26^{\circ}59'23''$ West 269.58 feet to the centerline monument found in the intersection of Maryland Avenue, a 64.5 foot wide right of way, and said Lower Linden Street; thence following said southwesterly right of way line of Lower Linden Street and having a meridian reference to the State of Delaware Grid North American Datum 83/91, as now surveyed:

- 1) South $26^{\circ}59'23''$ East 151.33 feet to the southeasterly corner of Parcel Two, as shown on a Record Major Subdivision Plan, titled "Reybold Venture Group XVII, L.L.C.", dated June 24, 2002 and recorded in the Office of the Recorder in New Castle County, Delaware as Instrument Number 20031031-0139425, said southeasterly corner being the beginning of an arc having a radius of 1,560.00 feet, said arc also being the northwesterly right of way line of AMTRAK; thence along said arc,
- 2) Southwesterly 146.89 feet, concave southeasterly, having a radius of 1,560.00 feet and subtended by a chord of South $46^{\circ}56'47''$ West 146.84 feet to a line 25.00 feet southeasterly from the fascia of the I-95 ramp; thence crossing through the I-95 right of way to create a new line of division and being 25.00 feet from the I-95 ramp fascia as now surveyed the following 5 courses:
- 3) Northerly 36.87 feet along an arc concave to the west, having a radius of 1,525.00 feet and subtended by a chord of North $02^{\circ}02'36''$ East 36.87 feet;
- 4) North $01^{\circ}21'02''$ East 28.23 feet to a point on the northwesterly line of said Parcel Two, said point being distant South $62^{\circ}58'40''$ West 30.65 feet and South $46^{\circ}12'37''$ West 90.75 feet to an open iron pipe found at the end of the North $38^{\circ}48'02''$ East 668.64 foot line shown on said Record Major Subdivision Plan; thence continuing
- 5) North $01^{\circ}21'02''$ East 36.79 feet;
- 6) North $00^{\circ}06'11''$ West 69.46 feet;
- 7) North $00^{\circ}12'50''$ West 13.27 feet;



- 8) North 05°04'36" East 34.43 feet to said southeasterly right of way of Liberty Street; thence along said southeasterly right of way line
- 9) North 63°46'25" East 36.68 feet to the POINT OF BEGINNING.

CONTAINING 14,152 square feet or 0.3249 of an acre of land, more or less.

BEING those portions of land of described in a deed between Keybold Venture Group XVII, LLC and State of Delaware, dated March 27, 2018 and recorded in Instrument Number 20180329-0014619 and the land condemned as Parcel No. 1 by the State of Delaware versus Ralph Bell, et al. recorded in a Deed of Record D-71-659, both in said Office of Recorder of Deeds of New Castle County, Delaware.

SUBJECT TO any terms or agreements described in a deed between Consolidated Rail Corporation and Sklut Hide and Fur Co., dated April 21, 1986 and recorded in Deed Book 364, Page 65 in said Office of Recorder of Deeds of New Castle County, Delaware.

A handwritten signature in blue ink that reads 'J. Nebre'.

Rummel, Klepper and Kahl, LLP
Jeanne L. Nebre, PLS
Professional Land Surveyor
Delaware License No. 828 Exp. 06/30/2019

4/30/2019

Date





Janette
4/30/2019

HELD CM LOCATED AT THE C. OF MARYLAND AVE AND LOWER LINDEN ST

LIBERTY STREET
40' ROW

EXIST. ROW
N63°00'37"E
17.50'

N63°46'25"E
36.68'(C)
POINT OF BEGINNING

EXTRA LAND
14152 SQ.FT. /
0.3249 ACRE /-

STATE OF DELAWARE
DEPARTMENT OF
TRANSPORTATION
REC. D-71 PAGE 659

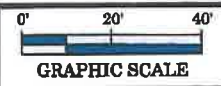
26-042.00-021
STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
INSTR. NO. 20180329-0014619
R-1560.00 L-146.89'(C)
CHD.S46°56'47"W 146.84'(C)

AMTRAK NORTHEAST CORRIDOR

CITY OF WILMINGTON, DE.

PROPOSED WILMINGTON
SKATE PARK
PROPERTY

APRIL 2, 2019



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