

Wilmington, Delaware
July 6, 2023

#xxxx

Sponsor:

**Council
Member
Harlee**

WHEREAS, City Charter Section 1-101 provides that the City may acquire, hold, manage, and dispose of property on such terms as it deems proper for any municipal purpose; and

WHEREAS, City Charter Section 2-621(a) provides that City Council shall by resolution declare a property approved for disposition and authorize the conduct of disposition proceedings by the Department of Real Estate and Housing; and

WHEREAS, City Charter Section 2-621(c) provides that non-profit organizations are exempt from the City’s bid procedures and that upon the declaration of a property approved for disposition by resolution of City Council, the Department of Real Estate may negotiate an agreement of sale, lease, exchange, or other transfer of such property owned by the City to any such non-profit organization; and

WHEREAS, the City currently owns certain properties located in the South Market Street Right-of-Way which are depicted on the attached Exhibit A, described on Exhibits B and C, and referred to throughout the Exhibits as “DP-10” and “DP-9”, consisting of approximately 150 square feet and 474 square feet, respectively (together referred to herein as “the Properties”); and

WHEREAS, because the Properties are essential and necessary components of the Right-of-Way of the “South Market Street Development Project” and are located within the 86-acre “Riverfront East” concerning which the City has a longstanding partnership with the Riverfront Development Corporation to develop and improve the area for the benefit of the City and its residents; and

WHEREAS, the Properties are small, are not being, and will not be, used for any public purpose by the Department of Public Works or the City; and

WHEREAS, the Riverfront Development Corporation (“RDC”) is a non-profit corporation to which the Department of Real Estate may lawfully convey title of the Properties; and

WHEREAS, Administration finds it is desirable and beneficial to the City to further the South Market Street Development Plan by conveying the Properties to the RDC; and

WHEREAS, based upon the recommendation of the Departments Public Works and Real Estate and Housing, the City wishes to declare the Properties surplus and available for disposition; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that Council hereby declares the Properties to be surplus and approves it for disposition to the RDC pursuant to the proposed Agreement to Convey Land (Exhibit D) or some substantially similar Agreement; and

BE IT FURTHER RESOLVED that Council hereby authorizes the Mayor or such other designee or authorized Department Head to execute all documents necessary to effectuate the dispositional proceedings for the Properties, including any and all further undertakings and assurances that may be appropriate.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution declares certain small and unused pieces of land owned by the City and located within the South Market Street Right-of-Way to be surplus and approves them for disposition to the Riverfront Development Corporation.

AGREEMENT TO CONVEY LAND

THIS AGREEMENT TO CONVEY LAND (the "**Agreement**") made this _____ day of March, 2023 between Riverfront Development Corporation of Delaware ("**RDC**") and the City of Wilmington ("**City**") (collectively, the "**Parties**").

- A. **WHEREAS**, the City is the owner of certain properties located in the South Market Street Right-of-Way which are herein referred to as Proposed Developable Parcel Area 'DP-9' ("**DP-9**") and Proposed Developable Parcel Area 'DP-10' ("**DP-10**"). DP-9 consists of approximately 150 square feet (0.0034 of an acre), more or less and DP-10 consists of approximately 474 square feet (0.0109 of an acre), more or less. Legal Description of DP-9 is attached as Exhibit A and the Legal Description of DP-10 is attached as Exhibit B and are incorporated by reference (the "**Properties**"); and
- B. **WHEREAS**, the Properties are shown on the Exhibit Plan prepared by Vandemark & Lynch, Inc. and attached as Exhibit C and incorporated by reference; and
- C. **WHEREAS**, the City does not utilize the Properties and is willing to convey the Properties to RDC; and
- D. **WHEREAS**, the Properties are an essential component of the Right-of-Way for South Market Street.

NOW, THEREFORE, for and in consideration of the mutual promises of the Parties as set forth herein, the City does hereby agree to convey the Properties identified as DP-9 and DP-10 in the attached legal descriptions attached as Exhibit A and Exhibit B located in the City of Wilmington, New Castle County Delaware to RDC.

- 1. **INCORPORATION BY REFERENCE**. Recitals A through D are incorporated by reference and made part of this Agreement.
- 2. **TRANSFER TAXES, PRO-RATED CHARGES**. Parties understand that there are no transfer taxes or any other lienable charges applicable to this transaction.
- 3. **TITLE**. Title shall be conveyed to RDC by quitclaim deed.
- 4. **NO REPRESENTATIONS, ENTIRE AGREEMENT**. RDC has agreed to acquire the Properties "as-is" in their condition on the date of this Agreement. Both RDC and the City have read and fully understand this Agreement, state that it contains the entire Agreement between them, and that they do not rely on any written or oral representation or statement not expressly written in this Agreement. This Agreement and the documents which it references constitute the entire agreement between the Parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement.

5. **NO RECORDING.** This Agreement shall not be recorded in the office of any recorder. However, it is a public record subject to the Delaware Freedom of Information Act and may furthermore be appended as an exhibit to legislation authorizing the Agreement and be kept in the appropriate office of the City of Wilmington and available for inspection, copying, and/or dissemination.
6. **NOTICES.** Any notice to the City shall be addressed to:

City of Wilmington
Department of Public Works
Louis L. Redding City/County Building
800 North French Street, 6th Floor
Wilmington, DE 19801
Attention: Director

With a copy to:

City of Wilmington
Law Department
Louis L. Redding City/County Building
800 North French Street, 9th Floor
Wilmington, DE 19801
Attention: City Solicitor of Wilmington

Any notice to RDC hereunder shall be addressed to:

Riverfront Development Corporation of Delaware
Chase Center
815 Justison Street
Wilmington, DE 19801
Attention: Megan M. McGlinchey, Executive Director

With a copy to:

Monzack Mersky and Browder, P.A.
1201 North Orange Street, Suite 400
Wilmington, DE 19801
Attention: Melvyn I. Monzack, Esquire

All notices shall be in writing, shall be delivered by receipted hand delivery or by overnight mail, and shall be effective when delivered.

7. **MISCELLANEOUS.** Delaware law governs this Agreement. The paragraph captions of this Agreement are inserted for reference only and are not intended to limit or enlarge the substance of this Agreement.

[SIGNATURE PAGE FOLLOWS]

Exhibit A
Proposed Developable Parcel Area 'DP-9'



**VANDEMARK
& LYNCH, INC.**
ENGINEERS • SURVEYORS • PLANNERS

4305 MILLER ROAD
WILMINGTON, DE 19802-1801
(302) 764-7635 FAX (302) 764-4170
www.vdeng.com

File No. 25197.00-EXHIB-08

December 13, 2022

Description of **Proposed Developable Parcel Area 'DP-9'**, within the existing right of way of South Market Street near Christina River, City of Wilmington, New Castle County, Delaware (Part of South Market Street Right of Way).

ALL THAT CERTAIN tract, piece or parcel of land with improvements thereon erected, situate within the existing right of way of South Market Street near, City of Wilmington, New Castle County, Delaware and shown on a plan prepared by VanDemark & Lynch, Inc., Engineers, Planners and Surveyors, Wilmington, Delaware, as file No. 25197.00-EXHIB-08, dated April 25, 2022, entitled "Developable Parcels DP-9 and DP-10, of a portion of Phase 1 Site (DE-1731)", and being more particularly described as follows, to wit:

BEGINNING at a point on the easterly line for land now or formerly of Riverfront Development Corporation of Delaware (Deed Record 20210924-0111720), at the intersection of the proposed westerly side of South Market Street, said side being 55 feet, measured at right angles thereto, from the construction baseline, with the existing westerly side of South Market Street (a public street at variable widths), said point being measured South 27°47'00" West, 1118.16 feet from the intersection of the Port Warden's Line (face of a concrete bulkhead) with the said westerly side of South Market Street (at an existing width of 80 feet);

THENCE, from said point of Beginning, through said existing South Market Street Right of Way, the two (2) following described courses and distances:

(Course 1 along said proposed westerly side of South Market Street)

1. Southerly, along a curve to the left, having a radius of 1,055.00 feet, an arc length of 40.22 feet to a point, said point being distant by a chord of South 16°54'47" West, 40.21 feet from the last described point; and
2. North 73°06'48" West, 7.72 feet to a point on the easterly line for other land now or formerly of land now or formerly of Riverfront Development Corporation of Delaware (Deed Record 20210924-0111720);

THENCE in part, along said other land now or formerly of Riverfront Development Corporation of Delaware (Deed Record 20210924-0111720) and, in part, along said first mentioned land now or formerly of Riverfront Development Corporation of Delaware, North 27°47'00" East, 40.95 feet to the point and place of Beginning.

Containing within said metes and bounds, 150 square feet (0.0034 of an acre) of land, being the same, more or less...

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EXHIBIT B
Proposed Developable Parcel Area 'DP-10'



**VANDEMARK
& LYNCH, INC.**
ENGINEERS-SURVEYORS-PLANNERS

4308 MILLER ROAD
WILMINGTON, DE 19802-1901
(302) 764-7635 FAX (302) 764-4170
www.vdlen.com

File No. 25197.00-EXHIB-08

December 13, 2022

Description of Proposed Developable Parcel Area 'DP-10', within the existing right of way of South Market Street near Christina River, City of Wilmington, New Castle County, Delaware (Part of South Market Street Right of Way).

ALL THAT CERTAIN tract, piece or parcel of land with improvements thereon erected, situate within the existing right of way of South Market Street near, City of Wilmington, New Castle County, Delaware and shown on a plan prepared by VanDemark & Lynch, Inc., Engineers, Planners and Surveyors, Wilmington, Delaware, as file No. 25197.00-EXHIB-08, dated February 5, 2021, entitled "Developable Parcels D-9 and D-10, Phase 1 Site (DE-1731)", and being more particularly described as follows, to wit:

BEGINNING at a point on the easterly line for land now or formerly of Riverfront Development Corporation of Delaware (Deed Record 20210924-0111720) on the existing westerly side of South Market Street (a public street at variable widths), said point being measured the two (2) following described courses and distances from the intersection of the Port Warden's Line (face of a concrete bulkhead) with the existing westerly side of South Market Street (at an existing width of 80 feet);

1. South 27°47'00" West, 1,225.65 feet to a point; and
2. South 02°49'00" East, 36.81 feet to the Point of Beginning;

THENCE, from said point of Beginning, through said existing South Market Street Right of Way, the two (2) following described courses and distances:

1. South 73°06'50" East, 14.51 feet to a point on the proposed westerly side of South Market Street, said side being 55 feet, measured at right angles thereto, from the construction baseline; and

(Course 2 along said proposed westerly side of South Market Street)

2. Southerly, by a curve to the left having a radius of 1,055.00 feet, an arc length of 69.74 feet to a point on said existing westerly side of South Market Street, said point being distant by a chord of South 08°28'56" West, 69.73 feet from the last described point;

THENCE along said existing westerly side of South Market Street, North 02°49'00" West, 73.27 feet to a point to the point and place of Beginning.

Containing within said metes and bounds, 474 square feet (0.0109 of an acre) of land, being the same, more or less...

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EXHIBIT C

Vandemark & Lynch, Inc. Exhibit Plan

