

RESOLUTION 20-04 -- RELEASE OF LAND FROM LEASEHOLD INTEREST AT NEW CASTLE AIRPORT AND GRANT OF CERTAIN RELATED EASEMENTS FOR A DEPARTMENT OF TRANSPORTATION OF THE STATE OF DELAWARE ROAD IMPROVEMENT PROJECT FOR ROUTE 141

WHEREAS, the Delaware River and Bay Authority (the “DRBA”) leases the New Castle Airport in New Castle, Delaware (the “Airport”) from New Castle County (“NCC”) pursuant to a long-term lease; and

WHEREAS, the DRBA subleases Tax Parcel No. 10-018.00-006-L0039, which is part of the Airport, to the Delaware Air National Guard (“DANG”); and

WHEREAS, the State of Delaware by and through the Department of Transportation (“DelDOT”) has a transportation public use project with a State Project No. of T201109001, entitled SR 141 Improvements, I-95 Interchange to Jay Drive (“Project”) which includes improvements to Route 141; and

Fee Simple Title, Permanent Easements and Avigation Easements:

WHEREAS, in connection with the Project, among other things, DelDOT requires the acquisition of title to certain parcels of property and permanent easements over other parcels; and

WHEREAS, the Airport is subject to certain conditions, reservations and restrictions pursuant to the 1949 Instrument of Transfer and arising pursuant to the acceptance of certain Federal Aviation Administration (“FAA”) grant funds;

WHEREAS, NCC and the DRBA submitted a letter to the FAA on August 10, 2018 requesting the release for sale and change of use of 1.0719 acres of land at the Airport (the “Property”);

WHEREAS, of the 1.0719 acres of Property included in the letter to the FAA, 0.8994 acres will be sold by NCC to DelDOT and NCC, with the consent of the DRBA and DANG, as applicable, will grant a permanent easement to DelDOT for the remaining 0.1725 acres of land; and

WHEREAS, the permanent easements are more fully described in the Project documents and include:

	<u>Parcel No. 10-018.00-006:</u>
	0.0019 Acres – Permanent Easement – Parcel No. 10-018.00-006
	0.0913 Acres – Permanent Easement – Parcel No. 10-018.00-006
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TOTAL	0.0932 Acres – Permanent Easement – Parcel No. 10-018.00-006

	<u>Parcel No. 10-018.00-006-L0039:</u>
	0.0045 Acres – Permanent Easement – Parcel No. 10-018.00-006-L0039
	0.0748 Acres – Permanent Easement – Parcel No. 10-018.00-006-L0039
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TOTAL	0.0793 Acres – Permanent Easement – Parcel No. 10-018.00-006-L0039; and

WHEREAS, the FAA issued an Environmental Decision dated October 10, 2018 in accordance with the National Environmental Policy Act; and

WHEREAS, on February 27, 2019, the United States Department of Defense provided approval for the release of the Property from the National Emergency Use Provision; and

WHEREAS, a Deed of Release authorizing the release and change of use of the Property was signed by the FAA on April 24, 2019 and recorded in the Office of the Recorder of Deeds in and for New Castle County, Delaware on April 30, 2019 as Instrument No. 20190430-0031304; and

WHEREAS, the Deed of Release requires the DRBA to impose certain protections for the use and benefit of the public, including a right of flight for the passage of aircraft in the airspace above the surface of the Property, and, among other things, a restriction on height of structures and avoidance of interference with air navigation and communications serving the Airport; and

WHEREAS, the DRBA, as Airport Sponsor, will comply with the terms of the Deed of Release by requiring DelDOT to provide avigation easements to NCC and the DRBA; and

WHEREAS, NCC is in the process of seeking approval from the New Castle County Council to declare the portion of the Property to be sold as surplus property; and

WHEREAS, the DRBA desires to obtain approval (i) to release the Property to be sold from its leasehold interest at the Airport and from the sublease with DANG, (ii) to consent to the granting of permanent easements across the Airport, and (iii) to the granting, receipt as a grantee and/or consent to the imposition of such other easements and/or restrictions as are required by the Deed of Release, including, without limitation, avigation easements across the Airport; and

Temporary Construction Easements:

WHEREAS, DelDOT also requires certain temporary construction easements across certain parcels on the Airport; and

WHEREAS, NCC intends to grant, with the consent of the DRBA and DANG, as applicable, certain temporary construction easements across certain parcels on the Airport; and

WHEREAS, the temporary construction easements are more fully described in the Project documents and include:

Temporary Construction Easements:

0.4026 Acres – Temporary Easement – Parcel No. 10-018.00-006-L0039
0.4062 Acres – Temporary Easement – Parcel No. 10-018.00-006; and

WHEREAS, the DRBA desires to obtain approval to consent to the granting of temporary construction easements across certain parcels on the Airport; and

Truck-Turn Around Area and Extinguished Easement (Adding Land to DRBA's Leasehold Interest):

WHEREAS, as part of the Project, DeIDOT is abandoning an existing truck-turn around area (the "Truck Turn-Around Area"); and

WHEREAS, DeIDOT desires to transfer title to the 0.1515 acre Truck Turn-Around Area to NCC and such property shall be added to the DRBA's leasehold interest at the Airport and to DANG's sublease; and

WHEREAS, as part of the Project, DeIDOT is also extinguishing an existing easement ("Extinguished Easement Area"); and

WHEREAS, from that Extinguished Easement Area, DeIDOT is retaining an easement on a 0.0032 acre portion of land; and

WHEREAS, NCC already has title to the 0.1603 acre Extinguished Easement Area, however, such Extinguished Easement Area shall be added to the DRBA's leasehold interest at the Airport and to DANG's sublease; and

WHEREAS, the DRBA desires to obtain approval (i) to consent to the amendment of its lease with NCC and the sublease with DANG to add the Truck Turn-Around Area and Extinguished Easement Area to such leases and (ii) to consent to the retention of the easement by DeIDOT and/or granting of the easement by NCC (however it may be fashioned in the documentation) on the 0.0032 acre parcel; and

Fair Market Value Appraisal:

WHEREAS, a fair market value appraisal was prepared and was submitted to the FAA for the Project; and

WHEREAS, the allocation table for the transaction is as set forth below:

***Allocation Table**

Parcel 1-L			
NCC/DRBA Acquisition land in FEE-2	8,116,951 SF	\$ 41,930	
PE-1 Acquisition	335,223 SF	- \$ 15	
PE-2 Acquisition	3,259,147 SF	- \$ 135	
Temporary Construction Easement (TCE)	17,535,305 SF	- \$ 20,400	
Parcel 2-L			
NCC/DRBA Acquisition land in FEE-1	4,228,544 SF	- \$ 21,840	
NCC/DRBA Acquisition land in FEE-2	26,830,974 SF	- \$130,580	Total FEE's \$202,360
PE-1 Acquisition	82,675 SF	- \$ 5	
PE-2 Acquisition	3,975,290 SF	\$ 165	Total PE's \$ 320
PE-2 Site Improvements – Seven (7) trees		\$ 4,700	Total Imps \$ 4,700
TCE-1 Acquisition	2,003,965 SF	- \$ 2,330	
TCE-2 Acquisition	313,960 SF	- \$ 360	
TCE-3 Acquisition	12,029,772 SF	- \$ 14,000	
TCE-4 Acquisition	1,557,752 SF	- \$ 1,810	
TCE-5 Acquisition	911,744 SF	- \$ 1,050	
TCE-6 Acquisition	877,557 SF	- \$ 1,020	Total TCE's \$40,980
State owned land in FEE	6,600 SF	<\$31,080>	
State owned Permanent Easement (PE)	6,983 SF	<\$34,270>	
Total as Land		<\$68,360>	Total Swap <\$68,360>
Partial Acquisition – Land/Easement Swap Allocations Total:			\$180,000

WHEREAS, NCC will cause the allocation total for the transactions contemplated herein to be provided to the DRBA, as Airport Sponsor, to be utilized for the development, improvement, operation or maintenance of the Airport.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the Project documents contemplated herein and, with the advice and consent of counsel, to have the recorded documents executed by the Chairperson, Vice Chairperson and Executive Director, and to have any other ancillary Project related documents executed, with the advice and consent of counsel, by the Executive Director.

Resolution 20-04 Executive Summary

- Resolution:** Authorizing the Release of Land from Leasehold Interest at New Castle Airport and Grant of Certain Related Easements for a Department of Transportation of the State of Delaware Road Improvement Project for Route 141.
- Committee:** Economic Development
- Committee/Board Date:** February 18, 2020
- Purpose of Resolution:** To authorize the sale of airport land, various permanent and temporary construction easements, amendment to the lease with New Castle County, amendment to the lease with the Delaware Air National Guard, various easements and consents to other ancillary documents in connection with the Department of Transportation of the State of Delaware's ("DelDOT's") Road Improvement Project to Route 141 surrounding the New Castle Airport.

Background for Resolution:

DelDOT has a transportation public use project with a State Project No. of T201109001, entitled SR 141 Improvements, I-95 Interchange to Jay Drive ("Project"). The Project will include improvements along the property line of the Airport. There will be a sale of airport land of 0.8994 acres, permanent easements of 0.1725 acres, temporary construction easements, avigation easements, the extinguishment of an existing permanent easement by DelDOT and the conveyance of 0.1515 acres back to New Castle County (and the DRBA's leasehold interest) from DelDOT. This Project creates the need for agreements amending both the leases with New Castle County and the Delaware Air National Guard as well as the DRBA consenting to easement rights granted by New Castle County across its leased premise.