"A Historic Past" *"A Bright Future"*

CITY OF DELAWARE CITY
407 Clinton Street – P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

RESOLUTION No. 16-0321-01

RESOLUTION WITH RESPECT TO THE ANNEXATION OF PROPERTY COLLECTIVELY KNOWN AS THE FORT DUPONT COMPLEX INTO THE CITY OF DELAWARE CITY AND ORDERING SPECIAL ELECTION

WHEREAS, the Charter ("Charter") of the City of Delaware City ("City"), Section 1-03, provides that the City shall have the power to annex, by ordinance, any territory contiguous to the City whenever, pursuant to a special election, the property owners with in the territory to be annexed and the qualified voters of the City determine, by majority vote, that such annexation is appropriate and thereby approved.

WHEREAS, on March 16, 2016, the Board of Directors of the Fort DuPont Redevelopment and Preservation Corporation ("FDRPC") passed a resolution seeking annexation of the Fort DuPont Complex (as more particularly described herein) into the City and requesting that the City commence the requisite annexation process.

WHEREAS, the proposed territory to be annexed consists of the area commonly known as the "Fort DuPont Complex" which consists of three (3) parcels more particularly described as New Castle County Parcel Nos. 12-023.00-021, 12-030.00-001 and 12-030.00-002.

WHEREAS, the City has determined that the Fort DuPont Complex is contiguous with the existing municipal boundaries of the City and has reviewed its Comprehensive Plan, as adopted and certified in December, 2008 and as updated in December, 2014 (the "Comprehensive Plan"), and has determined that the annexation of the Fort DuPont Complex into the municipal boundaries of the City is consistent with and permissible thereunder as such area is depicted as an area for future annexation and, as a result, no amendment or other modification to the Comprehensive Plan is necessary to effectuate the proposed annexation.

WHEREAS, pursuant to the Charter, Section 1-03, before the Fort DuPont Complex may be annexed into the City, Mayor and Council must undertake certain actions including (1) passing a resolution describing and defining accurately the area to be annexed; (2) providing for the zoning of the annexed territory; and (3) conducting a special election on not less than twenty (20) days notice with respect to the proposed annexation.

WHEREAS, Mayor and Council desire to pass a resolution as required by Section 1-03 of the Charter describing and defining accurately the area to be annexed and scheduling a special election, which shall be conducted by the Election Board of the City, with respect to the proposed annexation on **May 5, 2016**.

WHEREAS, pursuant to Section 1-03 of the Charter, every qualified voter of the City shall have one (1) vote and every property owner of the territory to be annexed, whether an individual, partnership, or corporation, shall also have one (1) vote, which provision shall be construed so as to permit only "one man, one vote" such that any voter entitled to vote by ownership of two or more properties and/or by qualified voter status and property ownership, that voter shall be entitled to only vote.

WHEREAS, the books and records of the Board of Assessment and/or the Department of Elections of New Castle County shall be conclusive evidence of the right of any qualified voter of the City or property owner of the territory to be annexed to vote at the Special Election.

WHEREAS, any partnership, corporation or other entity entitled to vote must cast its vote by a duly executed and acknowledged power of attorney/proxy, the form of which will be provided by the City via its website and free of charge at Town Hall, and which will be surrendered to the Election Board and filed with the City's official records and will constitute conclusive evidence of the right of said person to vote in the Special Election on behalf of the legal entity granting the power.

WHEREAS, voting in the Special Election by absentee ballot will be conducted in accordance with Article III entitled "Absentee Ballots" of the City Code; provided, however, that partnerships, corporations and other legal entities must vote in person and shall not be permitted to vote by absentee ballot.

WHEREAS, additional rules regarding the manner in which the Special Election will be conducted will be established and posted on the City's website and in at least five (5) public places in the City in tandem with any notice of special election.

WHEREAS, Mayor and Council will, as part of the annexation process and by ordinance, provide for the zoning of the annexed territory in accordance with the Comprehensive Plan which designates that, if annexed, the Fort DuPont Complex will be zoned as Historic Preservation and Redevelopment under the provisions of the Delaware City Code.

WHEREAS, subsequent to, and dependent upon the outcome of the Special Election, the Mayor and Council may introduce an ordinance(s) providing for the annexation and zoning of the Fort DuPont Complex at regular or special meeting of Mayor and Council and schedule a public hearing with respect to such ordinances at which time the Mayor and Council will entertain public comment on such proposals. Notice of such ordinance(s) and any public hearing will be provided in accordance with the Charter, the Delaware City Code and any other applicable state law.

NOW THEREFORE BE IT RESOLVED, by a majority vote of the Mayor and Council, by Resolution duly adopted by the Mayor and Council, at the meeting held on March 21, 2016 at 6:30 p.m., that the City acknowledges and accepts the request of the FDRPC for the annexation of the Fort DuPont Complex into the municipal boundaries of the City and hereby resolves to seek such annexation in accordance with the provisions of Section 1.03 of the Charter and, to the extent applicable, the Delaware City Code.

BE IT FURTHER RESOLVED, that in accordance with Section 1.03 of the Charter the area to be annexed is described and defined as the Fort DuPont Complex, comprised of those three (3) certain parcels of real property owned by FDRPC bearing New Castle County Parcel Nos. 12-023.00-021, 12-030.00-001 and 12-030.00-002.

BE IT FURTHER RESOLVED, that a Special Election will be held on **May 5, 2016 beginning at 12:00 p.m. and ending at 8:00 p.m**. in **Paul H. Morrell Jr. Community Center, 250 Fifth Street, Delaware City, Delaware 19706.** The Special Election will be conducted by the Election Board of the City.

BE IT FURTHER RESOLVED, that a Notice of Special Election including a copy of this Resolution shall be prepared and posted on the City's website and in at least five (5) public places in the City, one of which shall include City Hall for a period of at least twenty (20) days prior to the Special Election.

BE IT FURTHER RESOLVED, that the Notice of Special Election shall be published in a newspaper of general circulation within the City for two (2) consecutive weeks not less than twenty (20) days prior to the Special Election.

BE IT FURTHER RESOLVED, that, in accordance with the provisions of Section 1.03 of the Charter, every qualified voter of the City shall have one (1) vote and every property owner of the territory to be annexed, whether an individual, partnership, or corporation, shall also have one (1) vote. This provision shall be construed so as to permit only "one man, one vote" such that any voter entitled to vote by ownership of two or more properties and/or by qualified voter status and property ownership, that voter shall be entitled to only vote.

BE IT FURTHER RESOLVED, that the books and records of the Board of Assessment and/or the Department of Elections of New Castle County shall be conclusive evidence of the right of any qualified voter of the City or property owner of the territory to be annexed to vote at the Special Election; provided, however, that any partnership or corporation entitled to vote must cast its vote by a duly executed and acknowledged power of attorney/proxy.

BE IT FURTHER RESOLVED, that any partnership or corporation entitled to vote must use the form of power of attorney/proxy provided by the City via its website or at Town Hall, and such proxy must be surrendered to the Election Board and filed with the City's official records. The completed power of attorney/proxy will constitute conclusive evidence of the right of said person to vote in the Special Election on behalf of the legal entity granting the power.

BE IT FURTHER RESOLVED, that voting in the Special Election by absentee ballot will be conducted in accordance with Article III entitled "Absentee Ballots" of the City Code. Partnerships, corporations and other legal entities must vote in person and shall not be permitted to vote by absentee ballot.

BE IT FURTHER RESOLVED, that additional rules regarding the manner in which the Special Election will be conducted will be established and posted on the City's website and in at least five (5) public places in the City in tandem with any notice of special election.

This resolution is passed by Mayor and Council of the City of Delaware City on this 21st day of March 2016.

ATTEST:

City Secretary

Mayor

Council Member

Council Member

Council Member

Council Member

Council Member