

**CONNECTICUT GENERAL ASSEMBLY
CONVEYANCE QUESTIONNAIRE**

**Town of North Canaan
Camp Brook Greenway Parcel – 27.45 acres**

1. Please submit the following documents:

A. The best available legal map of the property.

The best available map of the property, three different-scale scans of which are attached hereto, is a compilation plan dated October 2021 and titled “Compilation Plan Town of North Canaan Map Showing Land Released To --- By The State of Connecticut Department of Transportation U.S. Route 7 (Ashley Fall Road) & Granger Lane Scale 1” = 120’ October 2021 Scott A. Hill, P.E.” Everyone dealing with the property has used this map or earlier versions of it for many years. (A significant amount of Land Records work has been done on behalf of the Town in preparation for a possible A-2 survey of the property, but without any field work or map drafting to date.)

B. An appraisal of the value of the property. If an appraisal has not been prepared, please indicate the estimated value of the property and the methodology used to calculate such estimated value.

In connection with its 2022-2023 attempt to sell the Camp Brook property at public auction, the Department of Transportation prepared an in-house appraisal that set the fair market value of the property at \$190,000 and established an auction asking price of \$200,000. No bids were received.

This is a long, narrow parcel with a year-round watercourse running down the middle, flanked by large areas of swamp and wetland, with very little road frontage. Its “highest and best use” is as an unspoiled open space and passive recreation area for hikers, dog walkers and disc golfers – exactly what Town residents have been using it for over the last 30 years, and what we hope they will be able to continue using it for in perpetuity. It has little to no development potential and is simply not a conventionally marketable property.

2. Is this conveyance based upon prior legislation? For example, are you attempting to repeal or amend a prior conveyance or was this request drafted in a bill that was not passed by the legislature? If yes, please give the bill or special act number and year, if known.

This conveyance is not based upon any prior legislation. This is a first request for legislative conveyance of the parcel.

3. Please answer the following questions:

- A. What are the tax assessor's map, block and lot numbers for the property? If such numbers do not accurately describe the property, please provide a metes and bounds legal description of the property.

The property is located on four separate tax parcels detached easterly of Ashley Falls Road and North Elm Street in North Canaan, Connecticut. North Canaan Assessor's Map and Lot numbers for the four parcels are as follows:

- Map 22 Lot 330-0
- Map 29 Lot 041-0
- Map 29 Lot 048-0
- Map 29 Lot 049-0

The property was acquired by the state more than 50 years ago in a series of purchases and takings of eleven or so separate parcels that have never to our knowledge been formally combined. Some of the recorded deeds and certificates of condemnation (all of which are referenced on the map attached hereto may incorporate metes and bounds descriptions, but there is no metes and bounds description of the property as a whole.

- B. What is the acreage of the property?

The approximate total acreage of the multiple parcels making up the property is 27.45 acres

- C. Which state agency has custody and control of the property?

The Connecticut Department of Transportation

- D. What costs, if any, would the state incur if the property were conveyed? (e.g. if the property abutted a highway and needed to be fenced off.)

To the best of our knowledge no such costs would be incurred by the state if the property were conveyed.

- E. How much would the municipality or entity receiving the property agree to pay for it? (e.g. the administrative costs to the state of making the conveyance; a specific dollar amount; or fair market value)

The Town is prepared to pay the administrative costs to the state of making the conveyance, but is fiscally not in a position to spend beyond that to acquire the property. Any additional funds needed to cover expenses associated with the conveyance will need to be raised from private donors.

- F. How will the municipality or entity receiving the property use it? (e.g. open space, recreational, housing, economic development)

The Town's plan for the property is to maintain it in perpetuity as open space and use it for low-impact (and non-motorized) public recreation. The goal is to have the property conveyed to the Town by a deed containing appropriate restrictive covenants that will preserve the established passive recreational uses of the property and others like them (specifically including a greenway trail and disc golf utilizing the kind of low-impact naturalized course that has been created on the property in recent years), ensuring that the property's recreational, educational and natural benefits will remain available for public use and enjoyment by current residents of our Town and region and will be preserved for future generations as well. Such covenants should include, but not be limited to, the following:

- *Property to be maintained as open space and used for low-impact (and non-motorized) passive public recreation, specifically including a greenway trail and disc golf (to avoid disputes over ambiguities in the definition of "passive" recreation as applied to disc golf);*
- *No residential or commercial development or subdivision;*
- *No sale or lease of the whole or any part of the property, except to a nonprofit entity formed to facilitate or manage permitted uses; and*
- *No gravel mining, logging or other extraction of natural resources.*

- G. If the municipality or entity receiving the property has a specified use for the property, would it agree to a provision in the conveyance legislation that, if the property is not used for such purpose, it shall revert to the state?

In theory this should be acceptable. The Town wants to create effective obstacles to changes of heart that might tempt future Town decision-makers to attempt to monetize the property or otherwise devote it to some "practical" use other than open space and public

recreation. However, it may be difficult to write a reversionary provision that is unambiguous enough to avoid the dual risks of inadvertent triggering on the one hand and deliberate attempts to get around the purpose of the provision on the other.

Reversionary provisions also need to be coupled with effective enforcement mechanisms if they are to have the desired effect of protecting the property from misuse. The possibility of reversion may be enough to deter most kinds of misuse, but the state may or may not be interested in policing local uses or in stepping in to litigate misuses brought to its attention. It may be desirable to give townspeople interested in preserving the intended uses of the property standing to challenge deviations from those uses.

[Does the Legislative Commissioner's Office have good sample reversionary provisions? The issues pointed out above must be a problem with many if not most of these legislative conveyances, although the intended purpose of a given conveyance is undoubtedly a lot clearer in some cases than in others.]

H. Has the municipality or entity asked the state agency that has custody of the property to convey the property to the town or entity (i.e. through an administrative rather than legislative process)?

Yes it has. The Town has been attempting for three years, ever since the Department of Transportation determined that the Camp Brook property was excess to its needs and required the Town to cease all recreational activity on it, to persuade the Department either to convey the property to the Town for nominal consideration for open space and public recreation use or, if the Department must conduct a public auction before it can release the property, to cooperate with the Town in the auction process so as to facilitate a purchase by the Town at a price the Town can afford to pay.

I. If the answer to question (H) is yes, please indicate the status of such administrative process and why legislation is needed. If the answer to question (H) is no, please indicate why not.

The administrative process is basically at an impasse. The Department takes the position that it is required to use its best efforts to maximize the state's financial benefit from disposition of the property without taking into account the public benefit or detriment of conveyance to any particular transferee, and is firmly committed to a valuation for the property that far exceeds what the Town is able to pay.

The Department has, at DEEP's request, temporarily suspended its efforts to sell the property by public auction pending efforts by the Town to obtain grant funding under DEEP's OSPA (Open Space Watershed and Land Acquisition) grant program, which it presumably

hopes will enable the Town to offer a significantly higher price for the property. Grant applications under that program are, however, time-consuming and expensive to assemble, and even when successful provide only partial funding for property acquisitions by qualified municipalities. Significant private funding will be required for acquisition of the Camp Brook property by the Town if that route has to be followed, and the public auction process will expose the property to the possibility of acquisition by a private buyer with no interest in the property's public recreational, educational or natural benefits.

Transfer of the property to the Town via the legislative process and a properly drafted deed will bring a prompt and publically beneficial resolution to the current impasse between the Department and the Town. It will also ensure that the Town can afford the acquisition of the property and that the property will not be lost to deeper private pockets, as well as putting in place appropriate restrictions to protect the long-term open space and public recreational values of the property without the need for a separate third-party conservation easement.

J. Has a title search of the property been conducted?

No full title search of the property has been conducted, although as indicated above a significant amount of Land Records work has been done in preparation for a possible A-2 survey of the property. The state has held continuous title to all of the parcels making up the property for more than 50 years, since they were acquired in connection with the state's now-abandoned Super 7 highway project, which minimizes the chances of any serious title issues.

K. Are there any deed or other restrictions on the use of the property? If so, please specify.

There are no deed or other restrictions on the use of the property of which the Town is aware. The state presumably took care to eliminate any restrictions relevant to its proposed highway use at the time it acquired the property more than 50 years ago. (The map attached hereto indicates that rights of access were released by all abutters whose properties were cut by the state's acquisition of the property.)

L. Please state the name of the municipality or entity that would receive the property.

"The Town of North Canaan, a Connecticut municipality in Litchfield County, Connecticut"

4. **Please provide the name, address and phone and fax numbers of the person who completed this form.**

Jointly completed by

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5. **Please provide the name of the legislator(s) sponsoring this legislation.**

Stephen Harding, Senate District 30 (Rep.) and Maria Horn, House District 64 (Dem.)