

**MINUTES OF MEETING
THE DELAWARE RIVER AND BAY AUTHORITY
Delaware Memorial Bridge Complex
Tuesday, May 17, 2022**

The meeting convened at 10:18 a.m. in person at the Delaware Memorial Bridge Complex, with Chairperson Hogan presiding.

The opening prayer was given by Vice-Chairperson Lathem, followed by the Pledge of Allegiance.

Chairperson Hogan called on the Authority Assistant Secretary to read the meeting notice. The Assistant Secretary announced that a notice of the meeting had been distributed to the offices of the Governor of New Jersey and the Governor of Delaware, to appropriate staff members and consultants, to the press in both States and to any other individuals who had indicated an interest in receiving a copy of the meeting.

Chairperson Hogan called on the Assistant Secretary to take the roll.

Commissioners from New Jersey

James N. Hogan, Chairperson
Shirley R. Wilson
Ceil Smith
Sheila McCann
M. Earl Ransome, Jr.
Heather Baldini

Commissioners from Delaware

Samuel Lathem, Vice-Chairperson
Crystal L. Carey
Henry J. Decker (arrived at 10:31 a.m.)
Michael Ratchford
Veronica O. Faust
Theodore Becker

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Chairperson Hogan called for the acceptance of the Agenda.

Vice-Chairperson Lathem made a motion to accept the Agenda, seconded by Commissioner Becker, and the motion carried by a voice vote of 11-0.

Chairperson Hogan called for a motion to move to Executive Session. Vice-Chairperson Lathem made a motion, seconded by Commissioner McCann, and the motion carried by voice of 11-0.

Members of the public and certain staff were excused from the room during the Executive Session.

The Executive Session started at 10:20 a.m. and ended at 11:16 a.m.

At the conclusion of the Executive Session, Chairperson Hogan called for a motion to close Executive Session and recess to conduct Committee Meetings. Vice-Chairperson Lathem made a motion, seconded by Commissioner Becker and the motion carried by voice of 12-0.

The Committee meetings started at 11:17 a.m. and ended at 12:45 p.m. During that time, the following committee meetings were held:

- Governance and Audit
- Budget & Finance
- Economic Development
- Projects

At the conclusion of the Committee meetings, there was a brief recess and Chairperson Hogan called the meeting back to order at 12:52 p.m.

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11934. APPROVAL OF THE APRIL 19, 2022 MINUTES

Vice-Chairperson Lathem made a motion to approve meeting minutes for April 19, 2022, seconded by Commissioner Wilson, and approved by a voice vote of 12-0.

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11935. DELAWARE RIVER AND BAY AUTHORITY – TRAFFIC AND REVENUE SUMMARY.

The Controller presented charts showing Actual versus Projected Revenues for the Delaware Memorial Bridge, the Cape May-Lewes Ferry, Airports, Delaware City-Salem Ferry Crossing and Food Service for April charts were ordered filed with the permanent records of the Authority.

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11936. DELAWARE RIVER AND BAY AUTHORITY – STATEMENT OF INCOME AND EXPENSE.

The Controller presented charts showing statements of income and expense for April 2022 with comparisons to the same periods last year

Without objection, the charts were ordered filed with the permanent records of the Authority.

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11937. DELAWARE RIVER AND BAY AUTHORITY – OPERATING EXPENSE BY DIVISION.

The Controller presented charts for April 2022 showing expenses by division for the quarter to date vs. the projected quarter and for year to date vs. total budget.

Without objection, the charts were ordered filed with the permanent records of the Authority.

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11938. DELAWARE RIVER AND BAY AUTHORITY – CAPITAL IMPROVEMENT PROGRAM.

The Controller presented charts for April 2022 showing the capital budget for crossing and economic development projects and dollars committed to date for the projects. The chart also included cash expenditures spent to date for the committed projects.

Without objection, the charts were ordered filed with the permanent records of the Authority.

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11939. DELAWARE RIVER AND BAY AUTHORITY – CASH POSITION (MARKET VALUE) FOR APRIL 30, 2022.

The Controller presented charts indicating the cash fund balances for the entire Authority.

Without objection, the charts were ordered filed with the permanent records of the Authority.

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11940. PUBLIC COMMENT ON ACTION ITEMS

Chairperson Hogan noted that (4) Contract Awards, (5) Contract Close-Outs, and (7) Resolutions were being considered at today’s meeting.

All action items have been reviewed, and recommended for consideration, during today’s Committee meetings. He then called for public comment on any action items.

There was no public comment on action items before the Board.

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11941. AWARD OF CONTRACT #WWD-22-A – REHABILITATION OF RUNWAY 10-28 – PHASE III

The Chief Operations Officer (COO) noted that a public opening bid was held on April 26, 2022. The COO and Projects Committee recommended awarding the contract to the lowest responsible bidder South State, Inc. of Bridgeton, New Jersey, in the amount of \$1,886,486.00.

A motion to award CONTRACT #WWD-22-A to the aforementioned firm was made by Commissioner Becker, seconded by Commissioner Ransome, and approved by a voice vote of 12-0.

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11942. AWARD OF CONTRACT #ILG-22-A – RUNWAY 1-19 REHABILITATION – PHASES III & IV

The Chief Operations Officer (COO) noted that a public opening bid was held on April 27, 2022. The COO and Projects Committee recommended awarding the contract to the 2nd lowest responsible bidder Allan Myers of Fallston, Maryland, in the amount of \$6,489,812.55.

A motion to award CONTRACT #ILG-22-A to the aforementioned firm was made by Commissioner Wilson, seconded by Commissioner Becker, and approved by a voice vote of 11-0-1. Commissioner Faust abstained.

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11943. AWARD OF CONTRACT #33N-22-01 – HVAC SYSTEM MODERNIZATION

The Chief Operations Officer (COO) noted that a public opening bid was held on April 27, 2022. The COO and Projects Committee recommended awarding the contract to the lowest responsible bidder I.D. Griffith of Wilmington, Delaware, in the amount of \$111,583.00.

A motion to award CONTRACT #33N-22-01 to the aforementioned firm was made by Commissioner Ransome, seconded by Commissioner Becker, and approved by a voice vote of 12-0.

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11944. REJECTION OF BID FOR CONTRACT #DMB-21-09 – LIFELINE FALL PROTECTION SYSTEMS ANCHORAGE STAIRS, LADDERS & CATWALKS

The Chief Operations Officer (COO) noted that a public opening bid was held on April 26, 2022. The COO and Projects Committee recommended rejecting the bid and rebidding as two separate projects-one for Cape May and one for Lewes.

Motion to Reject all bids for CONTRACT #DMB-21-09 was made by Commissioner Faust, seconded by Commissioner Decker, and approved by a voice vote of 12-0.

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11945. CLOSE-OUT CONTRACT #DMB-21-01 CHILLER PUMP REPLACEMENTS

CONTRACT #DMB-21-01 – CHILLER PUMP REPLACEMENTS was awarded to Guadelli Brothers of Millville, New Jersey.

It is recommended that the Authority accept this project and make the final payment to the contractor. The final cost of this project is \$275,033.00.

A motion to Close-Out Contract #DMB-21-01 was made by Commissioner Decker, seconded by Commissioner Becker, and approved by a voice vote of 12-0.

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11946. CLOSE-OUT CONTRACT #DMB-19-22 – DMB WELD SHOP VENTILATION UPGRADES

CONTRACT #DMB-21-01 – CHILLER PUMP REPLACEMENTS was awarded to Guadelli Brothers of Millville, New Jersey.

It is recommended that the Authority accept this project and make the final payment to the contractor. The final cost of this project is \$120,200.00.

A motion to Close-Out Contract #DMB-19-22 was made by Commissioner Ransome, seconded by Commissioner Becker, and approved by a voice vote of 12-0.

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11947. CLOSE-OUT CONTRACT #CMLF-C19-15 – CAPE MAY AUTOSHOP AND WELD SHOP VETILATION UPGRADES

CONTRACT #CMLF-C19-15 – CAPE MAY AUTOSHOP AND WELD SHOP VENTILATION UPGRADES was awarded to Guadelli Brothers of Millville, New Jersey.

It is recommended that the Authority accept this project and make the final payment to the contractor. The final cost of this project is \$81,200.00.

A motion to Close-Out Contract #CMLF-C19-15 was made by Commissioner Decker, seconded by Commissioner Ransome, and approved by a voice vote of 12-0.

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11948. CLOSE-OUT CONTRACT #DMB-21-05 – MISCELLANEOUS ROADWAY IMPROVEMENTS

CONTRACT #DMB-21-05 – MISCELLANEOUS ROADWAY IMPROVEMENTS was awarded to Mumford and Miller Concrete, Inc. of Middletown, Delaware.

It is recommended that the Authority accept this project and make the final payment to the contractor. The final cost of this project is \$4,300,739.90.

A motion to Close-Out Contract #DMB-21-05 was made by Commissioner Decker, seconded by Commissioner Faust, and approved by a voice vote of 12-0.

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11949. CLOSE-OUT CONTRACT #CMLF-C22-02 – ANNUAL MAINTENANCE DREDGING – CAPE MAY

CONTRACT #CMLF-C22-02 – ANNUAL MAINTENCE DREDGING – CAPE MAY was awarded to Barnegat Bay Dredging Company of Harvey Cedars, New Jersey.

It is recommended that the Authority accept this project and make the final payment to the contractor. The final cost of this project is \$470,202.55.

A motion to Close-Out Contract #CMLF-C22-02 was made by Commissioner Ransome, seconded by Commissioner Becker, and approved by a voice vote of 12-0.

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11950. CHAIRPERSON’S CALL FOR ACTION ON RESOLUTIONS BEFORE THE BOARD

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RESOLUTION 22-17 - AUTHORIZING AUTHORITY EXPENDITURES PURSUANT TO RESOLUTION 01-84 FOR THE PERIOD, JANUARY 1, 2022, THROUGH DECEMBER 31, 2022

WHEREAS, The Delaware River and Bay Authority (the “Authority”) adopted Resolution 01-84 requiring Commissioner review and approval of all Authority expenditures in excess of \$25,000; and

WHEREAS, the Authority anticipates expenditures at or over the \$25,000 amount to the following vendors:

DELAWARE RIVER & BAY AUTHORITY
VENDORS PROJECTED TO BE PAID OVER \$25,000
FOR THE PERIOD 1/1/22 THROUGH 12/31/22

VENDOR	PURCHASE DESCRIPTION	CLASSIFICATION	ESTIMATED \$
Abel Fence, LLC	Fence Fabric Replacement at ILG Lot B	Quotes	\$28,000
East Coast Emergency Lighting, Inc.	Emergency Lights and Equipment for Police Vehicles	State Contract	\$60,000
Steimling & Son, Inc.	One (1) Spare Tail Shaft for M/V New Jersey	Committee Waiver	\$110,000
Triad Associates	Grant Writing Services for Cape May and Millville Airports	Professional Service	\$32,500

Resolution 22-17 was moved by Commissioner Decker, seconded by Commissioner Becker, and was approved by a roll call vote of 12-0.

Resolution 22-17 - Executive Summary Sheet

Resolution: Authorizing Authority Expenditures Pursuant to Resolution 01-84 for the period January 1, 2022, through December 31, 2022.

Committee: Budget & Finance

Committee and Board Date: May 17, 2022

Purpose of Resolution:

Authorizes expenditures of \$25,000 or greater with the identified vendors during the 2022 calendar year.

Background for Resolution:

The proposed Resolution meets the requirements of Resolution 01-84, whereby the Authority shall not enter into any contract committing the Authority to spend or make any other expenditures relating to services, material and supplies in the amount of \$25,000 or more unless it has first been approved by a vote of Commissioners.

Purchase Detail:

Abel Fence, LLC: Fence Fabric Replacement at ILG Lot B

The Authority plans to remove the existing fabric on the fence located in Lot B at the New Castle Airport and replace with 3/8" mini-mesh security fence fabric to meet TSA compliance. Staff solicited quotes from three (3) contractors with Abel Fence submitting the lowest quote.

East Coast Emergency Lighting, Inc: Emergency Lights and Equipment for Police Vehicles

As new Police vehicles are acquired throughout the year, the Authority purchases equipment for up fitting each vehicle (e.g., light bars, controllers, power switches, brackets, barriers, K9 equipment, etc.). This service was previously authorized to Emergency Accessories & Installation, Inc., per equipment prices pursuant to state contract *GSS17626*, however, staff has identified more competitive equipment prices pursuant to East Coast's state contract (*17-FLEET-00761*).

Steimling & Son, Inc.: One (1) Spare Tail Shaft for M/V New Jersey

The Authority plans to purchase one (1) spare shaft for the M/V New Jersey. Staff solicited three (3) quotes with Steimling & Son submitting the lowest quote in accordance with the Authority's specifications. Due to drastic fluctuations in material pricing and the long lead time of 20 weeks on this item, a waiver of the threshold is being requested for this purchase.

Triad Associates: Grant Writing Services for Cape May and Millville Airports

The Authority has identified Triad Associates, based on their experience and success with projects in the region, to assist with grant writing services to pursue a grant(s) from the United States Economic Development Administration (USEDA). The grant application will attempt to gain funding for two (2) light industrial buildings, one each at the Cape May and Millville Airports.

Classification Definitions:

Committee Waiver.

The Budget and Finance Committee, in consideration of the overall procurement process, may increase or waive the thresholds established in paragraphs 1 and 2 of Resolution 98-31 for the following reasons: operational needs and issues, a need for uniformity and continuity in materiel and services required by the Authority, and unique or special needs of the Authority including, but not limited to, the desirability of owner furnished materiel and supplies in vessel repair, maintenance, renovation and rehabilitation (DRBA Resolution 98-31 Part 3).

Quotes. A purchase of equipment, supplies or non-professional services or a contract for construction or construction management that is anticipated to cost between \$25,000 and \$49,999 during a calendar year and for which the Authority has solicited written quotes. *"Contracts for materiel and supplies and non-professional services, awarded to any [vendor for an amount of] more than \$25,000 but less than \$50,000 in the aggregate require the solicitation of three written quotes or all available sources, whichever is less...Construction management contracts or construction contracts...which are less than \$50,000 do not require formal solicitation of competitive prices and, if more than \$25,000 but less than \$50,000 require*

the solicitation of three written quotes or all available sources, whichever is less... ” (DRBA Resolution 98-31 Part 4).

Professional Service. A purchase of services valued less than \$50,000 that are provided by a professional acting in a capacity that requires specialized education, knowledge, judgment, and skill, and is predominantly mental or intellectual (as opposed to physical or manual) in nature, also including any clerical or administrative support that is required for the proper delivery of the professional service. Professional services may also be classified as those types of services that are original and creative in character and in a recognized field of artistic endeavor.

State Contract. A purchase of equipment, supplies or non-professional services which, under normal circumstances, would require competitive bidding, however the vendor has agreed to provide the goods or services to the Authority at fees less than or equal to that vendor’s respective contract as awarded by the State of Delaware or New Jersey. *“Any contract for the purchase of materiel and supplies and non-professional services....which contract individually exceeds \$50,000, or in the combination with other contracts, exceeds \$50,000 in any one calendar year shall be pursuant to a contract entered into by the Authority after competitive bidding. This provision shall not apply to purchases by the Authority from suppliers in cases where the Authority is purchasing at prices pursuant to contracts awarded by the States of Delaware or New Jersey for state agencies.” (DRBA Resolution 11-36 Part 2.a.).*

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RESOLUTION 22-18 - AUTHORIZING THE SALE OF PROPERTY ALONG FREEMAN HIGHWAY IN LEWES, DELAWARE

WHEREAS, the Delaware River and Bay Authority (the “Authority”) is the owner of real property commonly referred to as Tax Parcel No. 3-35-9.0-302.00 situate in Lewes, Delaware located at the intersection of Freeman Hwy. and Monroe Ave. (the “Property”), said parcels being comprised of 6,452 square feet of land; and

WHEREAS, Showfield, LLC (the “Showfield”) is developing property adjacent to the intersection which has created the need for signalization at the intersection. The Authority has entered into a signalization agreement with DelDot; and

WHEREAS, it has been determined that Showfield needs to acquire the Authority’s property in order to make these intersection improvements; and

WHEREAS, the Authority has determined that it is in its best interest to sell the property; and

WHEREAS, Showfield has agreed to pay Nine Thousand Dollars (\$9,000.00) to purchase the Property; and

WHEREAS, the Authority has appraisals identifying the offer as meeting the Fair Market Value of the property; and

WHEREAS, Showfield wishes to assign the property to Lewes at closing and Lewes desires to assume the property and take title to the property directly from the Authority at closing; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to negotiate the terms and conditions of an Agreement of Sale (the "Agreement of Sale") to affect the sale of the property and to have the Agreement of Sale and all associated documents related to and required to consummate the sale, with the advice and consent of Counsel, executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 22-18 was moved by Commissioner Decker, seconded by Commissioner Ransome, and was approved by a roll call vote of 11-0-1. Commissioner Becker abstained from voting.

Resolution 22-18 - Executive Summary

Resolution: Authorizing the Execution of an Agreement of Sale between the Delaware River and Bay Authority, Showfield LLC and the City of Lewes, in Lewes Delaware.

Committee: Economic Development

Committee Date: May 17, 2022

Board Date: May 17, 2022

Purpose of Resolution: To permit the Executive Director, Chairman and Vice Chairman to execute and deliver an Agreement of Sale for property in Lewes, Delaware.

Background for Resolution: The Delaware River and Bay Authority owns property at the intersection of Freeman Hwy. and Monroe Ave. in Lewes Delaware. A developer, Showfield, LLC, is building a development that will tie into Monroe Ave. and a resulting Traffic Impact Study has indicated that a traffic light should be installed at the intersection along with roadway improvements. A signalization agreement has been entered into with DelDot since the Authority owns Freeman Hwy. The required improvements call for Showfield to acquire 6,452 sq.ft. of land from the Authority. At closing the ownership of the property will be transferred to the City of Lewes who will own and maintain the intersection.

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RESOLUTION 22-19 - AUTHORIZES A LEASE AMENDMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND CAPE ISLAND FOODS LLC THE CAPE MAY AIRPORT

WHEREAS, the Delaware River and Bay Authority (the “Authority”), is the operator of the Cape May Airport (the “Airport”), Cape May, New Jersey; and

WHEREAS, Cape Island Foods LLC (“Cape”) leases approximately 1,500 square feet of space commonly referred to Building 96 unit #8 in order to operate a retail shop of various food products at the Cape May Airport; and

WHEREAS, Cape’s lease provided for an initial term of one (1) year with two (2) one year renewals which have both been exercised; and

WHEREAS, Cape has requested additional renewal terms to extend the lease term for two (2) years; and

WHEREAS, Cape shall have the option of renewing this Lease Agreement for three (3) additional one (1) year terms; and

WHEREAS, rent shall adjust annually by the Consumer Price Index (CPI); and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the Lease Agreement with Cape Island Foods, LLC and with the advice and consent of counsel, to have such agreement executed by the Chairperson, Vice Chairperson and the Executive Director.

Resolution 22-19 was moved by Commissioner Wilson, seconded by Commissioner Becker, and was approved by a roll call vote of 12-0.

Resolution 22-19 - Executive Summary

Resolution: Authorizing the Execution of a Lease Amendment between the Delaware River and Bay Authority and Cape Island Foods LLC, regarding the Cape May Airport

Committee: Economic Development

Committee Date: May 17, 2022

Board Date: May 17, 2022

Purpose of Resolution: To permit the Executive Director, Chairman and Vice Chairman to execute and deliver a lease amendment for space at the Cape May Airport.

Background for Resolution:

The Delaware River and Bay Authority operates a retail building on Hornet Rd. at the Cape May Airport. Cape Island Foods currently leases unit #8 in the building and operates a nut butter shop from the facility. They have leased the facility since 2019 and they wish to renew their lease for the space. The rental rate is based upon the current FMV.

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RESOLUTION 22-20 – LEASE AMENDMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND LASSONDE PAPPAS AND COMPANY, INC. (FORMERLY KNOWN AS CLEMENT PAPPAS AND COMPANY, INC.) AT THE SALEM BUSINESS CENTRE

WHEREAS, The Delaware River and Bay Authority (the “Authority”), is the owner-operator of an approximately 80,000 square foot building in the Salem Business Centre (“SBC”), Carney’s Point, New Jersey; and

WHEREAS, Lassonde Pappas and Company Inc. (“Lassonde”) currently leases Fifty-Six Thousand Three Hundred and Seventeen (56,317) square feet of space in the Salem Business Centre; and

WHEREAS, the initial term of this Lease Agreement expires on August 6, 2022, and the Lease provides Tenant with three (3) five-year renewal periods; and

WHEREAS, Section 1.b. of the Lease requires that Tenant provide its written notice of its intention to exercise its first renewal option (“Renewal Notice”) to Landlord by November 1, 2021; and

WHEREAS, Landlord and Tenant verbally agreed to an extension on the deadline for the Renewal Notice to April 1, 2022; and

WHEREAS, Tenant has requested an additional extension on the Renewal Notice to September 1, 2022 and a commensurate extension on the Term of the Lease to December 31, 2022 and

WHEREAS, Landlord has determined that the modifications set forth in this Amendment fulfill the requirements of the Compact and are necessary for the sound economic development of the State of New Jersey and Landlord has agreed to such modifications upon the terms and conditions set forth herein; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the Lease Amendment with Lassonde Pappas and Company, LLC and, with the advice and consent of counsel, to have such Agreements executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 22-20 was moved by Commissioner Ransome, seconded by Commissioner Ratchford, and was approved by a roll call vote of 12-0.

Resolution 22-20 - Executive Summary Sheet

Resolution: Authorizing the Executive Director to execute a Lease Amendment with Lassonde Pappas and Company, LLC

Committee: Economic Development

Committee Date: May 17, 2022

Board Date: May 17, 2022

Purpose and Background for Resolution:

Lassonde Pappas and Company, LLC is currently a tenant in the Salem Business Centre located at 1 Collins Drive. They began leasing space in 2006. Lassonde’s renewal notice has been delayed and impacted by two things. Due to Covid, Lassonde’s employees are still primarily working remote. They have also had a complete change-over of their US executive staff and have not been in a position to renew or negotiate any changes to their leasehold. In addition, with the potential sale and possible new owners of the SBC, the Authority has been reluctant to negotiate a transaction that would impact the new owners. We would prefer that Lassonde and the new owners negotiate the renewal together. The extension should allow for the time needed to resolve both of these concerns.

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RESOLUTION 22-21 - PURCHASE AND SALE AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND THE STATE OF DELAWARE OFFICE OF MANAGEMENT AND BUDGET ON BEHALF OF THE DELAWARE ARMY GUARD FOR PROPERTY LOCATED AT THE NEW CASTLE AIRPORT

WHEREAS, the Delaware River and Bay Authority (the “Authority”), is the operator of the New Castle Airport (the “Airport”); and

WHEREAS, the Delaware Army National Guard (the “Guard”) currently leases approximately 24 +/- acres of land at the Airport; and

WHEREAS, the Guard has a need to expand their facilities to add a Rediness Center for the 126th Army Aviation Company (UH-60) Air Ambulance) and to have space for staging in relation to pandemic responses; and

WHEREAS, the Authority controls a facility adjacent to the Guard leasehold, commonly referred to as 10 and 14 Penns Way (the “Premises”) that is currently available for sale; and

WHEREAS, the Premises is composed of approximately thirteen (13) acres; and

WHEREAS, the Guard desires to purchase the Premises and has received CARES funding for the purchase; and

WHEREAS, the Guard agrees to purchase the Premises for the current Fair Market Value as determined by an appraisal of Three Million Five Hundred and Ninety Thousand 00/100 Dollars (\$3,590,000.00); and

WHEREAS, the Authority agrees that it will sell the Premises to the Guard if the following conditions are met:

- (i) The Guard has acquired the adjacent parcel at 12 Penns Way;
- (ii) The Guard agrees to purchase the Premises in its “AS-IS” condition pursuant to a special warranty deed, with no representations or warranties given by the Authority or the County other than those customary representations or warranties given by a “grantor” with respect to title to the Premises;
- (iii) Executes a restrictive covenant, in form and substance satisfactory to the Authority, in their sole discretion, prohibiting any activity on the Premises that would be incompatible with airport operations or would create a hazard or interference to the operation of aircraft and/or communication facilities;
- (iv) Grants to the Authority an easement in form and substance satisfactory to the Authority and the County, in their sole discretion, that would (a) establish the maximum height for structures and objects of natural growth, (b) provide a right of flight for the passage of aircraft in the space above the Premises, and (c) provide the Authority, the County and airport tenants and users the right to create or generate such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of flight using said airspace;
- (v) Agrees to execute such additional instruments, certificates, documents or agreements that may be reasonably requested to complete the sale of the Premises;

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the purchase and sale agreement with the State of Delaware on behalf of the Delaware Army Guard and with the advice and consent of counsel, to have such Agreement executed by the Chairperson, Vice Chairperson and the Executive Director.

Resolution 22-21 was moved by Commissioner Ratchford, seconded by Commissioner Decker, and was approved by a roll call vote of 12-0.

Resolution 22-21 - Executive Summary

- Resolution:** Authorizing a Purchase and Sale Agreement between the Delaware River and Bay Authority and the state of Delaware on behalf of the Delaware Army Guard for property located at the New Castle Airport.
- Committee:** Economic Development
- Committee Date:** May 17, 2022
- Board Date:** May 17, 2022
- Purpose of Resolution:** To permit the Executive Director, Chairperson and Vice Chairperson to execute and deliver a purchase and sale agreement for property at the New Castle Airport
- Background of Resolution:**

The Delaware River and Bay Authority owns a parcel of land in fee simple commonly referred to as 10 and 14 Penns Way. The Delaware Army Guard, through the State of Delaware would like to purchase the land located at 10 and 14 Penns Way. The State received CARES funds and a portion of those funds were approved and granted to the Army Guard to acquire the property in support of future pandemic or medical support activities. The Authority will sell the property as long as all the approvals are acquired, and the Guard purchases 12 Penns Way as well.

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RESOLUTION 22-22 - PURCHASE AND SALE AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY, NEW CASTLE COUNTY AND THE STATE OF DELAWARE OFFICE OF MANAGEMENT AND BUDGET ON BEHALF OF THE DELAWARE ARMY GUARD FOR PROPERTY LOCATED AT THE NEW CASTLE AIRPORT

WHEREAS, the Delaware River and Bay Authority (the “Authority”), is the operator of the New Castle Airport (the “Airport”); and

WHEREAS, New Castle County is the owner of the Airport; and

WHEREAS, the Delaware Army National Guard (the “Guard”) currently leases approximately 24 +/- acres of land at the Airport; and

WHEREAS, the Guard has a need to expand their facilities to add a Rediness Center for the 126th Army Aviation Company (UH-60) Air Ambulance) and to have space for staging in relation to pandemic responses; and

WHEREAS, the Authority controls a facility adjacent to the Guard leasehold, commonly referred to as 12 Penns Way (the “Premises”) that is currently available for sale; and

WHEREAS, the Premises sits on 2.94 +/- acres and contains an office building totaling approximately 27,000 sq.ft; and

WHEREAS, the Guard desires to purchase the Premises and has received CARES funding for the purchase; and

WHEREAS, the Authority agrees that it will execute an amendment to the Ground Lease with the County removing the Premises from its leasehold interest, and it will agree to sell the Premises to the Guard if the following conditions are met:

- (i) Obtains the County’s agreement to release the Premises from the Ground Lease upon terms reasonably satisfactory to the Authority;
- (ii) Obtains the County’s agreement to sell the Premises to the Guard at no less than Two Million One Hundred Thousand 00/100 Dollars (\$2,100,000.00) as determined by appraisals pursuant to fair market value policies issued by the Federal Aviation Administration (the “FAA”);
- (iii) Obtains the County’s agreement that the purchase price for the Premises shall be paid to the Authority for its airport fund, which is administered by the Authority as the sponsor of the Airport for the operation and maintenance of the New Castle Airport;
- (iv) The Guard agrees to purchase the Premises in its “AS-IS” condition pursuant to a special warranty deed, with no representations or warranties given by the Authority or the County other than those customary representations or warranties given by a “grantor” with respect to title to the Premises;
- (v) Obtains a deed of release in recordable form from the FAA releasing the Premises, or any portion thereof that is subject to FAA regulation, from FAA regulation and the conditions, reservations, exceptions and restrictions imposed pursuant to that certain Instrument of Transfer dated April 28, 1949 and effective as of October 27, 1947, as the same is of record in the Office of the Recorder of

Deeds in and for New Castle County, Delaware at Deed Record C, Volume 49, page 75;

- (vi) Executes a restrictive covenant, in form and substance satisfactory to the Authority and the County, in their sole discretion, prohibiting any activity on the Premises that would be incompatible with airport operations or would create a hazard or interference to the operation of aircraft and/or communication facilities;
- (vii) Grants to the Authority and the County an easement in form and substance satisfactory to the Authority and the County, in their sole discretion, that would (a) establish the maximum height for structures and objects of natural growth, (b) provide a right of flight for the passage of aircraft in the space above the Premises, and (c) provide the Authority, the County and airport tenants and users the right to create or generate such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of flight using said airspace;
- (viii) Agrees to execute such additional instruments, certificates, documents or agreements that may be reasonably requested to complete the sale of the Premises;

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the purchase and sale agreement with the State of Delaware on behalf of the Delaware Army Guard and with the advice and consent of counsel, to have such Agreement executed by the Chairperson, Vice Chairperson and the Executive Director.

Resolution 22-22 was moved by Commissioner Ratchford, seconded by Commissioner Becker, and was approved by a roll call vote of 11-0-1. Commissioner Faust abstained from voting.

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RESOLUTION 22-23 – AUTHORIZING A COST-SHARING AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND NEW CASTLE COUNTY

WHEREAS, in 1995, New Castle County (the “County”) and the Delaware River and Bay Authority (the “Authority”), entered into an Acquisition Agreement and Ground Lease whereby the Authority became the operator of the New Castle Airport (“Airport”), and

WHEREAS, in 2014, the Department of Natural Resources (“DNREC”) contacted both the County and the Authority to advise the parties of their potential liability as potentially responsible parties at the Airport pursuant to Section 9105 of the Delaware Hazardous Substance Cleanup Act, 7 Del. C., Chapter 91 (“HSCA”); and

WHEREAS, Resolution 15-22 authorized the Authority and the County to enter into an Environmental Remedial Investigation Cost Sharing Agreement (the “First Cost Sharing Agreement”) to share certain costs related to the remedial investigation; and

WHEREAS, on October 16, 2017, the Authority and the County entered into a Voluntary Cleanup Agreement between the Authority, the County and DNREC (the “VCP Agreement”) pursuant to HSCA and the Delaware Regulations Governing Hazardous Substance Cleanup; and

WHEREAS, Resolution 18-11 authorized the Authority and the County to enter into an Environmental Remedial Investigation Cost Sharing Agreement (the “Second Cost Sharing Agreement”) to share certain costs related to the remedial investigation; and

WHEREAS, Resolution 19-25 authorized the Authority and the County to enter into an Environmental Remedial Investigation Cost Sharing Agreement (the “Third Cost Sharing Agreement”) to share certain costs related to the ongoing remedial investigation; and

WHEREAS, the VCP Agreement covers investigation work only and does not address the responsibility of either party in the event additional investigation or environmental remediation is required; and

WHEREAS, the Authority and the County engaged an Environmental Investigation Consultant to conduct the remedial investigation; and

WHEREAS, Authority and the County would like to enter into a Fourth Environmental Remedial Investigation Cost Sharing Agreement (the “Fourth Cost Sharing Agreement”) to share certain additional costs related to the remedial investigation contemplated under the VCP Agreement; and

WHEREAS, the Authority and the County agree to share the additional costs related to the ongoing remedial investigation contemplated under the VCP Agreement equally with the parties’ costs capped at \$80,000 each; and

NOW, THEREFORE, BE IT RESOLVED, that Executive Director is hereby authorized to finalize the terms of a Fourth Cost-Sharing Agreement, and with the advice and consent of counsel, to have such agreements executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 22-23 was moved by Commissioner Ratchford, seconded by Commissioner Ransome, and was approved by a roll call vote of 11-0-1. Commissioner Faust abstained from voting.

Resolution 22-23 - Executive Summary Sheet

Resolution: Cost Sharing Agreement between the Delaware River and Bay Authority and New Castle County

Committee: Economic Development

Committee Date: May 17, 2022

Board Date: May 17, 2022

Purpose and Background for Resolution:

In 2014, DNREC contacted both the Authority and New Castle County to advise of potential liability under the Delaware Hazardous Substance Cleanup Act and request that the parties enter into a VCP Agreement for purposes of conducting a remedial investigation into the potential contamination. Resolutions 15-22, 18-11 and 19-25 authorized cost share agreements between the Authority and the County for purposes of conducting the remedial investigation associated with the VCP. The Authority and the County have engaged an Environmental Investigation Consultant and are complying with the remedial investigation outlined in the 2017 VCP agreement. To date, the Authority and the County have each expended \$175,000 on the remedial investigation to date. DNREC has requested additional remedial investigation under the terms of the VCP. The Authority and the County have each allocated an additional \$80,000 toward the costs associated with the VCP Agreement.

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11951. COMMISSIONERS PUBLIC FORUM

Chairperson Hogan called for comments from the public and Commissioners.

There were no additional public comments.

Upcoming Events

- Monday, May 30, 2022 • Memorial Day Service, 10:30am; Veterans Memorial Park
- Wednesday, June 1, 2022 • World Environmental Day, 10am to 2pm; Veterans Memorial Park
- Wednesday, June 22, 2022 • Board of Commissioners Meeting, 10 am; James Julian Board Room

There being no further business, Chairperson Hogan adjourned the meeting at 1:06 p.m.

Respectfully submitted,

THE DELAWARE RIVER AND BAY AUTHORITY

Stephen D. Williams
Assistant Secretary of the Board