

9209. RESOLUTION 05-14 AMEND THE GROUND LEASE BETWEEN NEW CASTLE COUNTY AND THE DELAWARE RIVER & BAY AUTHORITY RELATING TO THE NEW CASTLE AIRPORT. The Executive Director presented the following Resolution.

WHEREAS, The Delaware River and Bay Authority (the “Authority”) is the operator of the New Castle Airport (“Airport”) pursuant to that certain Ground Lease, dated June 30, 1995, between New Castle County (the “County”) and the Authority, a Memorandum of which was recorded in the Office of the Recorder of Deeds in and for New Castle County to give notice of the existence of the Lease (the “Ground Lease”); and

WHEREAS, the Authority has determined that in order to encourage growth and economic development at the Airport, it is necessary to promote investment in the Airport by private investors and develop relationships with long term tenants and users of the Airport; and

WHEREAS, the Authority has further determined that to promote investment in the Airport by private entities and ensure the economic viability of the Airport during the term of the Ground Lease and thereafter, it is necessary to enter into long term leasing and other arrangements with such private entities in order to provide them with the ability to recoup their investment and realize a reasonable return on that investment; and

WHEREAS, the initial term of the Ground Lease has approximately twenty years (“Initial Term”) remaining and the Authority has begun to encounter reluctance on the part of the financial and investment communities to invest in the Airport given the limited number of years remaining in the Initial Term; and

WHEREAS, the Authority has determined that it will become increasingly difficult to attract investment in the Airport by private entities as the length of the Initial Term of the Ground Lease continues to decrease; and

WHEREAS, the Authority has further determined that it is necessary to enter into leases and other arrangements with tenants at the Airport that extend beyond the Initial Term of the Ground Lease and into the renewal terms granted to the Authority but not yet exercised by the Authority; and

WHEREAS, the County has agreed to amend the Ground Lease to allow the Authority to enter into leases and other arrangements with tenants of the airport that extend beyond the Initial Term and into the renewal terms granted to the Authority but not yet exercised by the Authority; and

WHEREAS, the Department of Transportation of the State of Delaware (“DeIDOT”) is in the process of constructing improvements at the Airport Road and

Churchmans Road intersection (“Highway Project”) and in connection with the Highway Project, DeIDOT has determined that it must acquire fee simple title to two (2) parcels of land containing approximately 1.33 acres, in the aggregate (the “Fee Property”), which are subject to the Lease, and certain permanent and temporary easements (collectively, the “Easements”); and

WHEREAS, the Authority and the County have agreed to amend the Ground Lease to delete the land needed by DeIDOT from the definition of the Demised Premised and to provide for the grant by the County to DeIDOT of the easements necessary for the Highway Project; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the amendment to the Ground Lease and, with the advice and consent of counsel, to have such amendment executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 05-14 was moved by Commissioner Lowe, seconded by Commissioner Dorn and unanimously approved by a roll call vote of 11-0.