

**9240. RESOLUTION 05-24 - LEASE PURCHASE AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND THE STATE OF DELAWARE (DELAWARE AIR NATIONAL GUARD)** The Executive Director presented the following Resolution.

WHEREAS, The Delaware River & Bay Authority (the "Authority"), is the operator of the New Castle Airport; and

WHEREAS, the State of Delaware, on behalf of the Delaware Air National Guard (the "State"), desires to purchase approximately 10.42 acres of land on Airport Rd (the "Property"); and

WHEREAS, the sale of the Property is contingent upon the Authority acquiring the appropriate releases from both the Federal Aviation Administration and New Castle County; and

WHEREAS, in order to obtain the necessary State and Federal funding for the purchase of the Property and the construction of the improvements thereon, it is necessary for the State to obtain control over the Property before the required County and federal approvals are obtained; and

WHEREAS, the Authority has agreed to lease the Property to the State until such time as the necessary approvals are obtained and then convey the Property to the State on the terms and conditions set forth in the Lease;

WHEREAS, pursuant to said lease (the "Lease") the State shall pay to the Authority annual rent equal to the fair market value of the Property, with escalations based on the consumer price index, until the sale of the property is completed, and if the approvals are not obtained or otherwise denied, then the State shall continue to pay annual rent to the Authority equal to the fair market value of the Property with escalations; and

WHEREAS, the term of the Lease will expire no later than the expiration of the Authority's first renewal term under its ground lease with the County and will be divided between an initial term and a renewal term based on negotiations between the parties; and

WHEREAS, if the necessary approvals are obtained, the State may purchase the Property for a purchase price equal to fair market value of the Property on a per acre basis less a credit equal to up to twelve (12) months of rent payable under the Lease; and

WHEREAS, the State and the Authority will share the costs incurred in connection with the demolition of the buildings currently existing on the Property and the related remediation of substances in those buildings.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the Lease Agreement with the Option to

Purchase with the State of Delaware and, with the advice and consent of counsel, to have such Lease Agreement executed by the Chairperson, Vice Chairperson, and the Executive Director.

A motion to approve Resolution 05-24 was made by Commissioner Lathem, seconded by Commissioner Dorn and approved by a roll call vote of 11-0.