

**9126. RESOLUTION 04-51 - PRELIMINARY AUTHORIZATION OF AN AMENDMENT TO THE ACQUISITION AGREEMENT AND GROUND LEASE BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND THE CITY OF MILLVILLE RELATING TO THE DEVELOPMENT OF A MOTORSPORTS FACILITY.** The Executive Director presented the following Resolution.

WHEREAS, The Delaware River and Bay Authority (the “Authority”) and the City of Millville, New Jersey (the “City”), entered into an Acquisition Agreement, dated August 1, 1999, and Ground Lease, dated October 20,1999 (collectively the “Agreement”), regarding certain property and improvements thereto located in the City, commonly known as the Millville Airport (the “Airport”); and

WHEREAS, the Agreement, inter alia, provided the Authority with a thirty year leasehold interest in said Airport; and

WHEREAS, the City has requested that the Authority amend the Agreement to release certain parcels from the terms and conditions of said Agreement, said parcels to be: (a) an approximate 91 acre portion, Lot 2, Block 125 as shown on the Tax Map of the City; and (b) an approximate 139 acre portion, Lot 5, Block 125, as shown on the Tax Map of the City (“FAA Restricted Property”), for the purpose of facilitating the development of a motorsports park and resort (the “Project”), as proposed by New Jersey Motorsports Park, LLC, (“NJMP”); and

WHEREAS, the release of the FAA Restricted Property is subject to the approval of the Federal Aviation Administration (the “FAA”) and subject to the receipt of fair market value consideration in accordance with FAA requirements; and

WHEREAS, the City and NJMP have acknowledged that the development of the FAA Restricted Property by NJMP is conditioned on the approval of and subject to FAA approval and regulations and DRBA review and approval that such development of the Project does not in any way negatively affect the operation of the Airport; and

WHEREAS, the City, in addition to any other consideration for the Authority amending the Agreement, will include in the Agreement for the use and control of the Authority for Airport purposes certain land, which the City owns known as Lot 12 of Block 125, as shown on the City Tax Map, containing approximately 15 acres of vacant land, subject to the approval of the City Commission; and

HEREAS, the City, in addition to any other consideration for the Authority amending the Agreement, and subject to the approval of the City Commission, will use it’s best efforts to work with the Authority to acquire all or a portion of Lot 26 of Block 125, as shown on the City Tax Map, containing approximately 19 acres which adjoins the Airport so that it can be utilized for the development of the Airport; and

WHEREAS, the Authority has recently installed perimeter and security fencing at the Airport, with the financial assistance of the FAA, a portion of which is located on the property to be released; and

WHEREAS, the City and NJMP have agreed that in the event the released parcels are sold or leased to NJMP, the City and/or NJMP will be responsible for all costs associated with any necessary or appropriate relocation and addition of said fencing to insure the security of the Airport; and

WHEREAS, in the event that the proposed development by NJMP may require the relocation of the Airport's static test area run-up pad then and, in such event, it will be the responsibility of the City and/or NJMP to pay for any and all costs of the relocation of said static test area run-up pad to a site to be determined at the sole discretion of the Authority; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director and/or his designee is hereby authorized to negotiate and, with assistance of counsel, develop appropriate agreements to amend the Agreement between the Authority and the City to effectuate the release of the above-mentioned parcels, under the general terms and conditions and for the purposes stated herein.

BE IT FURTHER RESOLVED, that the Executive Director and/or his designee is hereby authorized to negotiate and, with assistance of counsel, develop appropriate agreement(s) between the Authority and the NJMP to reflect the terms, conditions, responsibilities and obligations of the two parties as generally stated above.

BE IT FURTHER RESOLVED, that upon completion of the negotiations and preparation of the aforementioned agreements, the Executive Director and/or his designee shall present said agreements to the Board of Commissioners for their approval after review and advice of Authority Counsel.

Resolution 04-51 was motioned by Commissioner Pessagno, seconded by Commissioner Koebig and approved by a roll call vote of 10-0.