

**RESOLUTION 20-35 – AUTHORIZING EXECUTION OF AGREEMENT AND DECLARATION OF TRUST AND OTHER NECESSARY DOCUMENTATION FOR PURPOSES OF PARTICIPATION IN THE MEBA TRAINING PLAN**

WHEREAS, the Delaware River and Bay Authority (the “Authority”) operates the Delaware Memorial Bridge, Cape May-Lewes Ferry, Forts Ferry Crossing, and five (5) airport facilities; and

WHEREAS, permanent full-time ferry crew and marine mechanical personnel including pilots, mates, able bodied seamen, ordinary seamen, chief engineers, first assistant engineers, third assistant engineers, QMEDs, oilers, and wipers, and marine mechanics, assistant mechanics, marine electricians, electronic technicians and welders and employed by the Authority at its Lewes, Delaware and Cape May, New Jersey facilities voluntarily designated the Marine Engineers’ Beneficial Association (“MEBA”) to represent them in an election held in 2000 with the first Collective Bargaining Agreement effective January 1, 2002; and

WHEREAS, in 2018, the Authority and MEBA negotiated and executed the most recent Collective Bargaining Agreement (the “Agreement”) which expires on December 31, 2022; and

WHEREAS, as part of the Agreement, as well as part of earlier Collective Bargaining Agreements with MEBA, the Authority makes quarterly contributions to the MEBA Training Plan (the “Plan”); and

WHEREAS, the Plan is a separate corporate entity from MEBA, with the Plan being established through an Agreement and Declaration of Trust (the “Trust”); and

WHEREAS, the terms and conditions governing contributions by employers to the MEBA Training Plan, including the Authority, are set forth in the Plan’s Agreement and Declaration of Trust; and

WHEREAS, in accordance with the terms of the Collective Bargaining Agreements, the Authority has made quarterly contributions to the Training Plan, which were accepted by the Plan; however, it appears that neither the Authority nor the Plan executed a written acceptance of the provisions of the Trust, and

WHEREAS, the Board deems it necessary to adopt such written documents as required by the Plan for purposes of auditing, compliance, or other legal purposes to ensure protection of the Authority’s rights.

NOW, THEREFORE, BE IT RESOLVED, that the Board authorizes, with the advice and

consent of counsel, acceptance of the terms and conditions of the Trust covering use of Authority's quarterly contributions to the Training Plan as required by any duly approved Collective Bargaining Agreement with MEBA; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Executive Director is authorized, with the advice and consent of counsel, to execute any documents necessary to accept the terms and provisions of the Trust and to take all other steps necessary to carry out the purposes of this Resolution and comply with the Plan.

### **Resolution 20-35 - Executive Summary Sheet**

**Resolution:** Authorizing Execution of Agreement and Declaration of Trust and Other Necessary Documentation for Purposes of Participation in the MEBA Training Plan

**Committee:** Personnel Committee

**Committee/Board Date:** October 20, 2020

#### **Purpose of Resolution:**

To authorize the Authority to execute the Agreement and Declaration of Trust and other necessary documentation for purposes of participation in the MEBA Training Plan.

#### **Background for Resolution:**

Since July 1, 2002, the Authority has had series of Collective Bargaining Agreements with the Marine Engineers' Beneficial Association, District No. 1-PCD ("MEBA") ("Agreement").

Under the Agreement, the Authority makes certain quarterly contributions to the MEBA Training Plan.

The MEBA Training Plan is a separate legal entity from MEBA and is governed by the Employee Retirement Income Security Act of 1974 ("ERISA").

Participating employers formalize their relationship with these types of Plans through a separate written acceptance of the trust indenture (the "Trust").

The Authority has made contributions to the Plan since the inception of the first Agreement with MEBA, but after exercise of due diligence, it does not appear that any written acceptance of the Trust was ever executed by either the Authority or the Plan.

Labor and Employment Counsel has advised that a written agreement accepting the terms and conditions of Trust should be executed to protect the Authority's rights.

