

9956. RESOLUTION 09-17 - AUTHORIZES A SETTLEMENT AGREEMENT WITH SPECIALTY RESTAURANTS CORPORATION AT THE NEW CASTLE AIRPORT

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

WHEREAS, Specialty Restaurants Corporation ("SRC") entered into a Lease Agreement with the Authority (as successor-in-interest to New Castle County) dated as of November 8, 1982 (the "Lease"), to lease approximately four (4) acres of land on Route 13 (the "Land"); and

WHEREAS, SRC constructed and operated the restaurant known as Air Transport Command (the "Restaurant") on the Land; and

WHEREAS, SRC defaulted on its obligation not to cease operation of a restaurant for more than a one (1) year period, and the Authority in response thereto, provided SRC with notice of the termination of the Lease on February 15, 2008; and

WHEREAS, SRC disputed the termination and the parties are currently involved in litigation arising from this dispute in the Justice of the Peace Court of the State of Delaware and the Superior Court of the State of Delaware; and

WHEREAS, the parties desire to enter into a Settlement Agreement to settle any and all disputes between them; and

WHEREAS, the Authority has agreed to make a payment of Twenty-Five Thousand Dollars (\$25,000) to SRC, to forgive or refund (if collected) any rent paid by SRC after February 15, 2008 and to release all claims against SRC arising out of the Lease in exchange for termination of the Lease and a release of all claims by SRC against the Authority arising under the Lease.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the Settlement Agreement with SRC and, with the advice and consent of counsel, have said Settlement Agreement executed by the Chairperson, Vice Chairperson, and the Executive Director.

A motion to approve Resolution 09-17 was made by Commissioner Hensley, seconded by Commissioner Dorn, and unanimously approved by a roll call vote of 9-0.