

9056. RESOLUTION 04-27 – RELATING TO THE PRELIMINARY AUTHORIZATION OF A PROJECT WITH DIAMOND STATE PORT CORPORATION. The Executive Director presented the following Resolution.

WHEREAS, The Delaware River and Bay Authority (the “Authority”) was created as a body politic and an agency of government of the State of Delaware and the State of New Jersey, by virtue of Chapters 145 and 146, Volume 53, Laws of Delaware, approved by the Governor of the State of Delaware July 21, 1961, and Chapter 66 of the Pamphlet Laws of 1961 of the State of New Jersey, approved by the Governor of the State of New Jersey June 3, 1961 (said Chapters 145 and 146 and said Chapter 66 issuing material being hereinafter sometimes collectively called the “Original Enabling Legislation”), pursuant to which the State of Delaware and the and the State of New Jersey entered, subject to the consent of the Congress of the United States of America, into a compact (hereinafter sometimes called the “Original Compact”) creating the Authority; and

WHEREAS, the consent of the Congress of the United States of America was given to the States of Delaware and New Jersey to enter into the Original Compact by a Joint Resolution of the Congress, approved September 20, 1962 (Public Law 87-678, 87th Congress); and

WHEREAS, by virtue of Chapter 252, Volume 67, Laws of Delaware, approved by the Governor of the State of Delaware June 28, 1990, and Chapter 192 of the Pamphlet Laws of 1989 of the State of New Jersey, approved by the Governor of the State of New Jersey October 18, 1989 (said Chapter 252 and said Chapter 192, together with the Original Enabling Legislation being hereinafter sometimes collectively called the “Enabling Legislation”), the State of Delaware and the State of New Jersey entered, subject to the consent of the Congress of the United States of America, into certain amendments to the Original Compact (as so amended and as may be further amended from time to time hereinafter sometimes called the “Compact”); and

WHEREAS, the consent of the Congress of the United States of America was given to the State of Delaware and New Jersey to enter into the Compact by a Joint Resolution of the Congress, approved November 15, 1990 (Public Law 101-565, 101st Congress); and

WHEREAS, by virtue of the Compact and the Enabling Legislation, the Authority’s powers include authorization to plan, finance, develop, construct, purchase, lease, maintain, improve and operate: (i) crossings between the States of Delaware and New Jersey, (ii) transportation or terminal facilities in Delaware and the New Jersey counties of Cape May, Cumberland, Gloucester and Salem and (iii) commerce facilities or development in Delaware and in the New Jersey counties of Cape May, Cumberland, Gloucester and Salem; and

WHEREAS, the Diamond State Port Corporation has submitted to the Authority a project that includes the leasing and operating of a Port warehouse. The Diamond State Port Corporation is requesting \$4,000,000.00 from the Authority for the project; and

WHEREAS, the Authority has determined preliminarily that it has the power to participate in these projects under the powers granted to it under the Compact and that such project would help fulfill the Authority's mission; and

WHEREAS, the Economic Development Committee has reviewed and recommended this project; and

WHEREAS, the Board of Commissioners, by the adoption of this Resolution, is indicating its intention to authorize certain action be undertaken in connection with the negotiation and finalization of terms and conditions and the drafting of agreements with Delaware State Port Corporation for the above described project in accordance with requirements of the Authority's Compact, appropriate State Statutes, Federal requirements related to fair and reasonable tolls and applicable Authority Resolutions and policy guidelines.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director and/or his designee shall develop appropriate agreements with Delaware State Port Corporation for the leasing and operating of a Port warehouse in Wilmington, Delaware, which shall be considered projects of the Authority as defined pursuant to Article II of the Compact. Upon the completion of appropriate agreements for the above-stated projects, the Executive Director and/or his designee shall present said Agreements to the Board of Commissioners for their approval and execution after review and advice of Counsel.

Resolution 04-27 was moved by Commissioner Cooper, seconded by Commissioner Pessagno and was approved by a roll call vote of 10-0.