

10618. RESOLUTION 23-37 – AMEND THE ACQUISITION AND GROUND LEASE BETWEEN THE COUNTY OF CAPE MAY AND THE DELAWARE RIVER & BAY AUTHORITY RELATING TO THE CAPE MAY AIRPORT

WHEREAS, The Delaware River and Bay Authority (the "Authority") is the operator of the Cape May Airport ("Airport") pursuant to that certain Ground Lease, dated June 8, 1999, between the County of Cape May (the "County") and the Authority, a Memorandum of which was recorded in the Office of the Recorder of Deeds in and for Cape May County to give notice of the existence of the Lease (the "Ground Lease") and pursuant to an Acquisition Agreement, dated December 15, 1998; and

WHEREAS, First Amendments to the Ground Lease and Acquisition Agreement dated October 16, 2014 were executed by the County and the Authority; and

WHEREAS, pursuant to Section 2.b. of the Ground Lease Agreement and Section 2.3 of the Acquisition Agreement, certain parcels of land were excluded from the transfer to the Authority due to environmental contamination and the need for remediation (the "Excluded Real Property"); and

WHEREAS the Ground Lease Agreement and Acquisition Agreement provided that upon completion of remediation in accordance with applicable State of New Jersey and Federal laws, the applicable Excluded Real Property parcels would be added to the airport through an amendment to the Ground Lease Agreement and Acquisition Agreement; and

WHEREAS, remediation has been completed on one or more of the Excluded Real Property parcels; and

WHEREAS, the Authority and the County wish to amend provisions of Section 2.b.(2) of the Ground Lease Agreement and provisions of Section 2.3.(d) of the Acquisition Agreement. The County has completed remediation on the following Excluded Real Property parcels and has obtained a Remedial Action Outcome (RAO) document for each Excluded Real Property parcel from New Jersey Department of Environmental Protection:

- A. Excluded Property Parcel 2 (Imhoff Tank Farm)
- B. Excluded Property Parcels 5 and 6 (Building 12)
- C. Excluded Property Parcel 8 (Resdel Bunker); and

WHEREAS, the Authority and County wish to add the above parcel to the Airport Real Property in the Acquisition Agreement and to the Demised Premises in the Ground Lease Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the amendment to the Ground Lease Agreement and the Acquisition Agreement and, with the advice and consent of counsel, to have such amendments executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 23-37 - Executive Summary Sheet

Resolution: Authorizing the Executive Director to execute an Amendment to the Ground Lease and Acquisition Agreement with the County of Cape May.

Committee: Economic Development

Committee Date: June 21, 2023

Board Date: June 21, 2023

Purpose of Resolution:

To permit the Executive Director, Chairman and Vice Chairman to execute and deliver Lease Amendments to the Ground Lease and Acquisition Agreement for the Cape May Airport

Background for Resolution:

The DRBA entered into a ground lease agreement with the County of Cape May in 1999. There were multiple environmentally contaminated parcels of airport property located throughout the airport that were identified. The County agreed to retain those parcels during the acquisition and remediate the sites. Once clean, the agreement called for the parcels to be added to the Ground Lease with the Authority. The clean up has been ongoing and has taken several years with several parcels still going through the remediation process. The FAA has requested that the parcels be made part of the Ground Lease as soon as possible.