

**RESOLUTION 22-21 PURCHASE AND SALE AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND THE OFFICE OF MANAGEMENT AND BUDGET ON BEHALF OF THE DELAWARE ARMY GUARD FOR PROPERTY LOCATED AT THE NEW CASTLE AIRPORT.**

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

WHEREAS, the Delaware Army National Guard (the “Guard”) currently leases approximately 24 +/- acres of land at the Airport; and

WHEREAS, the Guard has a need to expand their facilities to add a Rediness Center for the 126<sup>th</sup> Army Aviation Company (UH-60)Air Ambulance) and to have space for staging in relation to pandemic responses; and

WHEREAS, the Authority controls a facility adjacent to the Guard leasehold, commonly referred to as 10 and 14 Penns Way (the “Premises”) that is currently available for sale; and

WHEREAS, the Premises is composed of approximately thirteen (13) acres.; and

WHEREAS, the Guard desires to purchase the Premises and has received CARES funding for the purchase; and

WHEREAS, the Guard agrees to purchase the Premises for the current Fair Market Value as determined by an appraisal of Three Million Five Hundred and Ninety Thousand 00/100 Dollars (\$3.590,00.00); and

WHEREAS, the Authority agrees that it will sell the Premises to the Guard if the following conditions are met:

- (i) The Guard has acquired the adjacent parcel at 12 Penns Way;
- (ii) The Guard agrees to purchase the Premises in its “AS-IS” condition pursuant to a special warranty deed, with no representations or warranties given by the Authority or the County other than those customary representations or warranties given by a “grantor” with respect to title to the Premises;
- (iii) Executes a restrictive covenant, in form and substance satisfactory to the Authority, in their sole discretion, prohibiting any activity on the Premises that would be incompatible with airport operations or would create a hazard or interference to the operation of aircraft and/or communication facilities;

- (iv) Grants to the Authority an easement in form and substance satisfactory to the Authority and the County, in their sole discretion, that would (a) establish the maximum height for structures and objects of natural growth, (b) provide a right of flight for the passage of aircraft in the space above the Premises, and (c) provide the Authority, the County and airport tenants and users the right to create or generate such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of flight using said airspace;
  
- (v) Agrees to execute such additional instruments, certificates, documents or agreements that may be reasonably requested to complete the sale of the Premises;

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the purchase and sale agreement with the State of Delaware on behalf of the Delaware Army Guard and with the advice and consent of counsel, to have such Agreement executed by the Chairperson, Vice Chairperson and the Executive Director.

## **Resolution 22-21 Executive Summary**

**Resolution:** Authorizing a Purchase and Sale Agreement between the Delaware River and Bay Authority and the state of Delaware on behalf of the Delaware Army Guard for property located at the New Castle Airport.

**Committee:** Economic Development

**Committee Date:** May 17, 2022

**Board Date:** May 17, 2022

**Purpose of Resolution:** To permit the Executive Director, Chairperson and Vice Chairperson to execute and deliver a purchase and sale agreement for property at the New Castle Airport

**Background of Resolution:**

The Delaware River and Bay Authority owns a parcel of land in fee simple commonly referred to as 10 and 14 Penns Way. The Delaware Army Guard, through the State of Delaware would like to purchase the land located at 10 and 14 Penns Way. The State received CARES funds and a portion of those funds were approved and granted to the Army Guard to acquire the property in support of future pandemic or medical support activities. The Authority will sell the property as long as all the approvals are acquired, and the Guard purchases 12 Penns Way as well.