

RESOLUTION 19-25 – COST-SHARING AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND NEW CASTLE COUNTY

WHEREAS, in 1995, New Castle County (the “County”) and the Delaware River and Bay Authority (the “Authority”), entered into an Acquisition Agreement and Ground Lease whereby the Authority became the operator of the New Castle Airport (“Airport”), and

WHEREAS, in 2014, the Department of Natural Resources (“DNREC”) contacted both the County and the Authority to advise the parties of their potential liability as potentially responsible parties at the Airport pursuant to Section 9105 of the Delaware Hazardous Substance Cleanup Act, 7 Del. C., Chapter 91 (“HSCA”); and

WHEREAS, Resolution 15-22 authorized the Authority and the County to enter into an Environmental Remedial Investigation Cost Sharing Agreement (the “First Cost Sharing Agreement”) to share certain costs related to the remedial investigation; and

WHEREAS, on October 16, 2017 the Authority and the County entered into a Voluntary Cleanup Agreement between the Authority, the County and DNREC (the “VCP Agreement”) pursuant to HSCA and the Delaware Regulations Governing Hazardous Substance Cleanup; and

WHEREAS, Resolution 18-11 authorized the Authority and the County to enter into an Environmental Remedial Investigation Cost Sharing Agreement (the “Second Cost Sharing Agreement”) to share certain costs related to the ongoing remedial investigation; and

WHEREAS, the VCP Agreement covers investigation work only and does not address the responsibility of either party in the event additional investigation or environmental remediation is required; and

WHEREAS, the Authority and the County engaged an Environmental Investigation Consultant to conduct the remedial investigation; and

WHEREAS, Authority and the County would like to enter into a Third Environmental Remedial Investigation Cost Sharing Agreement (the “Third Cost Sharing Agreement”) to share certain additional costs related to the remedial investigation contemplated under the VCP Agreement; and

WHEREAS, the Authority and the County agree to share the additional costs related to the ongoing remedial investigation contemplated under the VCP Agreement equally with the parties’ costs capped at \$75,000 each; and

NOW, THEREFORE, BE IT RESOLVED, that Executive Director is hereby authorized to finalize the terms of the Cost-Sharing Agreement and the related Environmental Consulting Agreement, and with the advice and consent of counsel, to have such agreements executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 19-25 Executive Summary Sheet

Resolution: **Cost Sharing Agreement between the Delaware River and Bay Authority and New Castle County**

Committee: Economic Development

Committee Date: June 18, 2019

Board Date: June 18, 2019

Purpose and Background for Resolution:

In 2014, DNREC contacted both the Authority and New Castle County to advise of potential liability under the Delaware Hazardous Substance Cleanup Act and request that the parties enter into a VCP Agreement for purposes of conducting a remedial investigation into the potential contamination. Resolutions 15-22 and 18-11 authorized cost share agreements between the Authority and the County for purposes of conducting the remedial investigation associated with the VCP. The Authority and the County have engaged an Environmental Investigation Consultant and are complying with the remedial investigation outlined in the 2017 VCP agreement. To date, the Authority and the County have each expended \$100,000 on the remedial investigation to date. DNREC has requested additional remedial investigation under the terms of the VCP. The Authority and the County have each allocated an additional \$75,000 toward the costs associated with the VCP Agreement.