



SPONSOR: Rep. Q. Johnson & Sen. Sokola  
Reps. Mulrooney, Mitchell, Potter, Miro, Wilson; Sens.  
Bushweller, Marshall, Townsend, Bonini, Hocker,  
Cloutier

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE CONCURRENT RESOLUTION NO. 76

APPROVING THE PROPOSED TRANSACTION TO LEASE DIAMOND STATE PORT CORPORATION PROPERTY  
UNDER CERTAIN TERMS AND CONDITIONS.

1 WHEREAS, the Diamond State Port Corporation (“DSPC”) owns and operates the Port of Wilmington (“Port”)  
2 and commissioned a Strategic Master Plan that determined the need to invest a minimum of \$300 million in its existing  
3 facilities and develop a container terminal in order to retain the Port’s current customers and cargos and maintain the jobs  
4 and economic impacts that the Port provides in Delaware; and

5 WHEREAS, in furtherance of the Strategic Master Plan, in early 2017 DSPC acquired the Edgemoor parcel  
6 (“Edgemoor”) for the development of a container terminal to further increase jobs and economic impacts from the Port’s  
7 operations; and

8 WHEREAS, in May 2017, DSPC issued a public Request for Qualification to assess plans and qualifications for  
9 private investment in the development and operations of the Port’s facilities; and

10 WHEREAS, the Evaluation Committee of the DSPC’s Board of Directors (“Board”), with the help of an  
11 independent reviewer of the evaluation process, has recommended the selection of GT USA Wilmington, LLC (“GT”) as  
12 the most qualified proposer for the development and operation of the DSPC’s facilities at the Port and Edgemoor; and

13 WHEREAS, under § 8784(1) of Title 29 of the Delaware Code, any “agreement or transactions to transfer,  
14 privatize, or lease all or substantially all of the Port of Wilmington to a single entity or to a related group of entities” must  
15 be approved by the General Assembly by a concurrent resolution within 30 days of the presentation by the Chair of the  
16 Board to the Joint Committee on Capital Improvement (“Committee”) of the terms of the proposed final agreement or  
17 transaction; and

18 WHEREAS, on April 6, 2018, the Board voted to recommend that the General Assembly approve a proposed final  
19 agreement or transaction with GT and authorized the Chair of the Board to make the required presentation to the  
20 Committee; and

21 WHEREAS, on April 19, 2018, the Chair of the Board presented the terms of the proposed final agreement or  
22 transaction to the Committee and, subsequently, the Committee members explained the terms of the proposed final  
23 agreement or transaction to their respective caucuses.

24 NOW, THEREFORE:

25 BE IT RESOLVED, by the House of Representatives of the 149<sup>th</sup> General Assembly of the State of Delaware, the  
26 Senate concurring therein, that the General Assembly approves of the proposed final agreement or transaction in its  
27 entirety, which includes the following key terms and conditions:

28 (1) **Parties:** Diamond State Port Corporation and GT USA Wilmington, LLC.

29 (2) **Agreement:**

30 a. 50 year Lease and Concession Agreement for GT to operate the Port facilities.

31 b. DSPC will continue to own the real property and maintain oversight rights regarding safety and  
32 security standards at the Port.

33 c. The Port properties will be handed back to DSPC with the capacity to handle minimum annual  
34 volume guaranteed.

35 d. No continuing capital or operating commitment from DSPC or the State of Delaware.

36 (3) **Closing Date:** As soon as practicable upon General Assembly and federal approvals.

37 (4) **Properties:** The Port and Edgemoor.

38 (5) **Assets:** Existing assets (cranes, vehicles, tools, etc.) plus GT to assume all assumable contracts and  
39 the right to receive reimbursement for capital expenditures up to any unused Port amounts from the Fiscal Year  
40 2018 Bond Bill.

41 (6) **Other Key Terms:**

42 a. GT to recognize and use existing unionized labor workforce under applicable collective bargaining  
43 agreements.

44 b. GT will enter into Project Labor Agreements with union labor for Port capital improvement  
45 projects.

46 c. GT to extend continued employment to all other DSPC employees at substantially similar  
47 compensation for not less than 6 months.

48 d. Port and Edgemoor to be used solely for permitted uses in accordance with all applicable permits  
49 and laws, including the Coastal Zone Act. Use as a liquified natural gas terminal is expressly prohibited.

50 e. DSPC and GT will enter into mutual non-competes.

51 f. DSPC will have a non-voting observer role at GT Board meetings and oversight on key matters  
52 including security, dredging, major changes to business strategy, key construction projects, and more.

53 g. The International Longshoreman's Association will have a non-voting representative at  
54 operational meetings.

h. The transaction is subject to receipt of any necessary reviews or approvals by the Committee on Foreign Investment in the United States and the Federal Maritime Commission.

**(7) Concession Fees:**

a. Year 1 fee of \$6.1 million rising to \$13.1 million in Year 10 based on volume guarantees and inflationary adjustments.

b. Minimum annual fees will cover all DSPC debt service and post-closing operating costs.

c. DSPC may receive an upfront fee (offset against future fees) to cover closing costs.

**(8) Financial Guarantee:** Minimum \$15 million, 2 year, renewable and continuous letter of credit or surety bond from a U.S. financial institution guaranteeing concession fees and contract performance.

**(9) Cargo Guarantee:** More than 100% planned growth in container cargo volumes to 780,000 TEUs and more than 75% planned growth in non-containerized cargo volumes in the first 10 years. Cargo volume growth guaranteed to reach at least 75% of planned growth.

**(10) Capital Commitments:**

a. Total capital commitment by GT of \$584 million as follows:

1. The Port -- \$73 Million

2. Edgemoor -- \$411 million

3. Additional Warehousing -- \$100 million

b. Minimum initial capital expenditures by GT guaranteed as follows:

1. The Port -- \$60 million in the first 3 years.

2. Edgemoor -- \$250 million in the first 5 years.

**(11) Dredging:** GT responsible for all costs of Edgemoor permitting and project dredge (estimated \$42.5 million) and the Port operating and maintenance dredging.

BE IT FURTHER RESOLVED, DSPC is authorized to enter into a final agreement in accordance with such key terms and conditions subject to final due diligence by the parties and any additional requirements as determined by federal agencies.

**SYNOPSIS**

This Concurrent Resolution provides the General Assembly's approval of the proposed final agreement or transaction between the Diamond State Port Corporation and GT USA Wilmington, LLC, as required by § 8784(1) of Title 29 of the Delaware Code. This Concurrent Resolution authorizes the Diamond State Port Corporation Board of Directors to enter into a lease for an up to 50 year concession to operate the Port of Wilmington and Edgemoor under the terms outlined in the Resolution.