



**Unanimous Written Consent of the Board of Directors of the
Diamond State Port Corporation**

Resolution 26-02

Section 10/404 Permit and Section 408 Permission for DCT Development Project

WHEREAS, in 2020, Diamond State Port Corporation (“DSPC”) submitted a Section 10/404 Permit and Section 408 Permission request to the U.S. Army Corps of Engineers (the “USACE”) to alter the Delaware River, Philadelphia to the Sea Federal Navigation Project (“Philadelphia to the Sea Project”) by deepening an area directly adjacent to the federal navigation channel to provide vessel access to a proposed landside port facility located in Edgemoor, Delaware and to be known as the Delaware Container Terminal;

WHEREAS, in 2022, the USACE granted a Section 10/404 Permit and Section 408 Permission;

WHEREAS, in October 2024, the U.S. District Court for the Eastern District of Pennsylvania (the “Court”), in response to a lawsuit filed against USACE by Philadelphia based parties that compete with DSPC, vacated the Section 10/404 Permit and Section 408 Permission and directed the USACE to reevaluate DSPC’s application consistent with its opinion and address (i) the scope of the USACE’s review under the Clean Water Act and the Rivers and Harbors Act; (ii) the need for reconsideration of navigation and safety issues; and (iii) the USACE’s obligation to follow USACE’s Guidance on the Statement of No Objection process with respect to the Philadelphia Port Authority (“PhilaPort”);

WHEREAS, following the Court’s ruling, DSPC analyzed the ruling carefully and, with Enstructure, engaged the Jacobs Engineering Group, an international firm with decades experience in maritime infrastructure, to provide additional independent analysis around the project and the issues raised by the Court. Jacobs conducted extensive research, interviewed licensed pilots of the Pilots Association of Bay and River Delaware that captain these vessels on the Delaware River, worked with the Marine Institute of Technology and Graduate Studies on additional simulations and engaged other stakeholders to produce a detailed report for USACE, to which the United States Coast Guard also provided comment;

WHEREAS, in providing this supplemental information relevant to the Court’s opinion to the USACE, DSPC requested that the USACE reevaluate its Section 10/404 Permit and Section 408 Permission;

WHEREAS, the USACE (i) performed its re-evaluation to identify and assess elements of the proposed work located directly adjacent to the boundaries of the Philadelphia to the Sea Project in accordance with Engineer Circular (EC) 1165-2-220, (ii) determined that DSPC’s proposed alterations would not impair the purpose and function of the Philadelphia to the Sea Project and would not create a navigation safety risk and (iii) granted DSPC an exception request regarding the obligation to obtain a Statement of No Objection from PhilaPort;

WHEREAS, following such re-evaluation, the USACE is prepared to re-issued the Section 10/404 Permit and Section 408 Permission which permits DSPC, subject to certain terms and conditions provided

by the USACE, to alter the Philadelphia to the Sea Project by deepening an area directly adjacent to the federal navigation channel to a depth of 45 feet to provide vessel access to the Delaware Container Terminal; and

WHEREAS, DSPC requests that the Board authorize the execution, delivery and performance of, and ratify actions taken with respect to, the Section 10/404 Permit and Section 408 Permission, so that USACE will proceed to re-issue the Section 10/404 Permit and Section 408 Permission.

NOW, THEREFORE, BE IT RESOLVED: The Board hereby authorizes and ratifies actions taken with respect to the Section 10/404 Permit and Section 408 Permission;

FURTHER RESOLVED, that the Chairperson of DSPC (an "Authorized Signatory") is hereby authorized and directed to execute, and cause DSPC to perform its obligations under, the Section 10/404 Permit and Section 408 Permission and any and all agreements and documents related thereto and to take all other actions in furtherance of obtaining or defending the Section 10/404 Permit and Section 408 Permission;

FURTHER RESOLVED, that the Authorized Signatory is hereby authorized and directed to take such further actions and to execute and deliver, and to cause DSPC to perform its obligations under the agreements referenced in the foregoing and such further agreements, instruments, certificates and any other documents as may be contemplated by or related to the Section 10/404 Permit and Section 408 Permission or as such Authorized Signatory determines to be necessary, appropriate or advisable to carry out the intent and effectuate the purpose of the foregoing, the taking of such further action or the execution of such further agreement, instrument, certificate or other document by such Authorized Signatory to be conclusive evidence of such determination and the authority therefore; and

FURTHER RESOLVED, that any and all actions heretofore taken by any member of the Board or officer, employee or agent of DSPC in connection with or related to the foregoing be, and hereby are, ratified, confirmed and approved in all respects as fully as if such actions had been presented to the Board for its approval and approved prior to the taking of such action

IN WITNESS WHEREOF, the Board has unanimously adopted and executed this Unanimous Written Consent of the Board of Directors of Diamond State Port Corporation.

To consent, each Board member may reply **via email** with an affirmative response. An affirmative email response will be treated as such Board member's adoption and execution of this written consent.

DSPC Board Members:

Charuni Patibanda-Sanchez, Chair
Karen C. Bifferato
David H. Burt
Shanté A. Hastings
Robert Medd
Michael Smith

Fred C. Sears, Vice-Chair
Darius J. Brown
Joshua Bushweller
Ronald Harris
Debra Heffernan
Ruth Ann Miller

This Resolution was unanimously approved by all Board Directors and read into record at the 4/20/2026 DSPC Board meeting.