

SUBMISSION FOR APPROVAL

DEPARTMENT: FINANCE & ADMINISTRATION

DATE: MARCH 28, 2018

Subject: Recommendation of a proposed Public-Private Partnership Agreement

COST: _____ NON BUDGETED: _____ SOURCE OF FUNDS: _____

Background & Status:

The Diamond State Port Corporation ("DSPC") commissioned a Strategic Master Plan to consider, among other things, the need for increased public and/or private investment for port development. In July 2016, the Plan projected the need for a minimum of \$300 million worth of improvements to the Port of Wilmington facility and the development of a container terminal in order to retain the Port's current customers and cargos and maintain the jobs and economic impact that the Port provides in Delaware. In furtherance of the Master Plan, in early 2017 DSPC negotiated the purchase of the "Edgemoor" parcel located just to the north of the Port for development as a future container terminal. DSPC then retained Seabury PFRA (Seabury) to market a Public-Private Partnership (P3) and separately engaged PFM Financial (PFM) to act as an independent evaluator and reviewer of the P3 proposals. In May 2017, DSPC issued a public Request for Qualifications (RFQ) to assess interest in developing the P3.

In order to review the qualifications of the proposers and their proposals, DSPC formed a 7-member Evaluation Committee from its 15-member Board of Directors and the Vice Chair of the DSPC was appointed to Chair the Evaluation Committee. The Committee developed a scorecard, based on the criteria published in the RFQ in order to ensure a fair and consistent comparison among the various proposals. DSPC and Seabury formally issued the RFQ to more than 50 potential respondents and ultimately 10 responses were received of which 6 were deemed to be sufficiently responsive to be evaluated and rated. These proposers were encouraged to explore partnerships amongst themselves and provided opportunities to improve and revise their proposals. After evaluation, three proposals were shortlisted in October 2017. Two of the three further combined their proposals leaving two for final evaluation. After further detailed evaluation of the two, one was selected as best meeting the criteria established in the RFQ. The preferred candidate was GT USA (GT), a subsidiary of GulfTainer Company of UAE that operates 13 port and logistics terminals worldwide. A non-binding Letter of Intent was signed in December 2017 to negotiate and develop a detailed Term Sheet setting forth the key terms of a Concession Agreement between DSPC and GT and plans for future development of the Port. A summary of the resulting Term Sheet is attached with this Submission.

Highlights of the negotiated Term Sheet are:

- 50-year lease (DSPC continues to own real property)
- Projected \$584 million investment in the first 10 years:
 - Minimum \$60 million in the current Port of Wilmington site in first 3 years
 - Minimum \$250 million in Edgemoor in the first 5 years
- Cargo growth projected in the first 10 years:
 - More than 100% growth in container cargo volumes.
 - More than 75% growth in non-containerized cargo volumes.
- Projected concession fees of \$6 million in Year 1 growing to \$13 million or more in Year 10

The State will have no future ongoing capital or operating commitment to the Port or GT. Although GT will undertake the day-to-day operations and the planned expansion, DSPC will still retain a critical oversight role. With its presence as a non-voting observer at GT's Board meetings, and grantor of various consents, DSPC will have oversight in monitoring safety and security, major business and financing strategy, major construction projects and dredge management of port facilities.

GT will recognize the existing International Longshoremen Association (ILA) for continued operating labor at the port and allow the ILA to have a non-voting observer at all operational meetings. GT will develop a Project Labor Agreement with qualified unionized labor for capital improvement projects. GT will also extend continued employment to all other existing DSPC employees for not less than six months. Most importantly, the above capital investment and cargo growth can be expected to more than double the number of direct, indirect and induced jobs associated with the Port of Wilmington over the next decade.

The Delaware Code (Title 29, Section 8784) requires the approval of the General Assembly by a concurrent resolution to "transfer, privatize, or lease all or substantially all of the Port of Wilmington to a single entity". The Delaware Code provides for the Chair of the DSPC Board of Directors to make a presentation to Joint Committee on Capital Improvement discussing the terms of the transaction. Within 30 days of the presentation, the General Assembly can approve or reject the transaction in its entirety. In no case, can the DSPC enter into the transaction without the approval of the General Assembly. If the transaction is approved, the next step would be preparation of the final Agreement in accordance with the detailed term sheet, final due diligence by the parties, and any required reviews of the term sheet and/or final Agreement by applicable federal agencies.

Recommendation:

DSPC is recommending (i) that the Board of Directors review and recommend the approval of the P3 transaction with GT to the Delaware General Assembly; and (ii) that the Chair of the Board be authorized to make the required presentation to the members of the Joint Committee on Capital Improvement and the Delaware General Assembly seeking its approval by concurrent resolution.

Submitted and Recommended by:

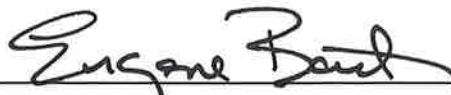


Parul Shukla, Director Finance & Administration

Recommended for Board Approval:

Date:

March 28, 2018



Eugene R. Bailey, Executive Director

**Diamond State Port Corporation
Board of Directors**

Resolution 18-15

**Recommendation of a proposed Public-Private Partnership Agreement
with GT USA Wilmington LLC**

WHEREAS, the Diamond State Port Corporation ("DSPC") has determined the need to invest in its existing facilities and develop a container terminal in order to maintain and increase jobs and other economic impacts resulting from the port operations;

AND WHEREAS, DSPC issued a public Request for Qualification to assess qualifications and plans for private investment in the development of port facilities;

AND WHEREAS, the Evaluation Committee of the Board of Directors (Board) has, with the help of an independent reviewer of the evaluation process, recommended the selection of GT USA Wilmington LLC (GT) as the most qualified proposer for the development and operation of the port facilities at Wilmington and Edgemoor;

NOW, THEREFORE, BE IT RESOLVED, that the Board (i) recommends that the General Assembly of the State of Delaware approve the proposed transaction with GT based on the terms contained in the attached summary of the Term Sheet and (ii) hereby authorizes the Chair of the Board to make any presentations to the Joint Committee on Capital Improvement and the members of the Delaware General Assembly, as may be deemed appropriate.

PORT OF WILMINGTON TRANSACTION – SUMMARY OF KEY TERMS

- Parties:** Diamond State Port Corporation (DSPC) and GT USA Wilmington LLC (GT)
- Agreement:** 50 Year Concession Agreement to be handed back with the capacity to handle minimum annual volume guaranteed. No continuing capital or operating commitment from DSPC or the State.
- Closing Date:** Spring 2018. Soon as practicable upon Board, General Assembly, and federal approvals
- Property and Assets:** Port of Wilmington (POW), Edgemoor and existing assets (cranes, vehicles, tools, etc.)
GT to assume all assumable contracts and right to receive reimbursement for capital expenditures up to any unused POW amounts from the FY 2018 Bond Bill.
- Key Terms:** Recognize and use existing unionized labor workforce under applicable CBA.
Enter into Project Labor Agreement with union labor for capital improvement projects.
Operate POW and Edgemoor solely for permitted uses (LNG terminal prohibited).
DSPC and GT's parent to enter into mutual non-competes.
DSPC to have non-voting Board observer and oversight on key matters including security, dredging, major changes to business strategy, key construction projects, etc.
ILA to have a non-voting representative at operational meetings.
- Concession Fee:** Year 1 fee of \$6.1 million rising to \$13.1 million in Year 10 based on volume guarantees and inflationary adjustments. Minimum annual fees will cover all debt service and post-closing operating costs. DSPC may receive an upfront fee (offset against future fees) to cover closing costs.
- Financial Guarantee:** Minimum \$15 Million, 2 year, renewable letter of credit/surety bond from a U.S. financial institution guaranteeing concession fees and contract performance.
- 10 Year Cargo:** Planned 108% increase in container cargo to 780,000 TEUs
Planned 75% increase in non-container cargo
Volume guarantees at 75% of planned growth
- 10 Year Capital:** Total -- \$584 million as follows:
Port of Wilmington -- \$73 Million
Edgemoor -- \$411 Million
Additional Warehousing -- \$100 Million
- Minimum Initial Capital as follows:
Port of Wilmington -- \$40 Million first 2 years + \$20 Million warehousing first 3 years
Edgemoor -- \$250 Million by 12/31/2020 and operational by 12/31/2023. Subject to extension to 12/31/2022 if container volumes have not reached 600,000 TEUs in which case operational no later than 12/31/2025.
- Dredging:
GT responsible for costs of Edgemoor permitting and project dredge (estimated \$42 Million) and O&M dredging for Port of Wilmington.