

RESOLUTION 22-11 - LEASE AMENDMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND FERRY PARK, LLC AT THE CAPE MAY FERRY TERMINAL

WHEREAS, The Delaware River and Bay Authority (the “Authority”), is the operator of the Cape-May Lewes Ferry (“CMLF”) which includes the terminal building located in Cape May, New Jersey (the “Cape May Terminal Building”); and

WHEREAS, Ferry Park, LLC owned by Jack Wright, has entered into a Lease Agreement with an initial term of ten years for approximately 11,748 rentable square feet of space in the Cape May Terminal Building and 15,547 rentable square feet of contiguous patio space (the “Leased Premises”) and periodic exclusive access to the contiguous green; and

WHEREAS, on April 20, 2021, the Board passed Resolution 21-10 authorizing the Executive Director to finalize the terms and conditions of the Lease Agreement with Ferry Park, LLC; and

WHEREAS, on May 18, 2021, the Board passed Resolution 21-22 which reduced the annual base rent from One-Hundred Twenty-Five Thousand Dollars (\$125,000.00) to Ninety-Six Thousand, Seven Hundred and Fifty Dollars (\$96,750.00) annual base rent during the first year of the lease; and

WHEREAS, on September 20, 2021, the Board passed Resolution 21-36 which reduced the annual base rent further to One Thousand Dollars (\$1,000.00) per month until such time as Ferry Park LLC received their liquor license; and

WHEREAS, on September 28, 2021, Ferry Park, LLC received authorization from the New Jersey Division of Alcoholic Beverage Control to serve and sell alcoholic beverages; and

WHEREAS, the Authority recognizes the continued economic challenges to Ferry Park LLC and its’ ongoing efforts to make improvements to the Cape May Ferry Terminal, and

WHEREAS the Authority feels that Ferry Park LLC’s success this season is in the Authority’s best interest, and

WHEREAS, the Authority wishes to reset financial terms and considerations of the lease; and

WHEREAS, annual base rent for the first year of the lease (June 1, 2021-May 31, 2022) will be reduced to \$35,251 as follows:

Months 1-4 \$1000/month

Months 5-7 \$10,416.67/month

Months 8-12 \$0/month; *and*

WHEREAS, Ferry Park, LLC has agreed to pay the Authority One Hundred and Twenty-Five Thousand dollars (\$125,000) annual base rent during the second year of the lease; and

WHEREAS, to the extent that Ferry Park LLC, has already made some base rental payments for Months 8-12 of the first year of the Lease, the Authority will credit those payments toward the base rent due during the second year of the Lease, as determined by the Authority; and

WHEREAS, Ferry Park, LLC has agreed to pay the Authority Two Hundred and Twenty-Five Thousand dollars (\$225,000) annual base rent during the third year of the lease; and

WHEREAS, annual base rent shall increase at a rate of two- and one-half percent (2.5%) per year for lease years four through ten; and

WHEREAS, Ferry Park LLC will also not be charged for its Proportionate Share of Operating Costs or Utilities or for Percentage Rent from June 1, 2021, through May 31, 2022; and

WHEREAS, Ferry Park, LLC's obligation to pay its Proportionate Share of Operating Costs and Utilities, and Percentage Rent will commence on June 1, 2022; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of an Amended and Restated Lease with Ferry Park, LLC and, with the advice and consent of counsel, to have such Lease Amendment executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 22--11 Executive Summary

Resolution: Authorizing the Execution of a Lease Amendment between the Delaware River and Bay Authority and Ferry Park, LLC Committee: Budget & Finance Committee/Board

Committee Budget and Finance

Committee/Board Date: April 19, 2022

Purpose of Resolution: To authorize a lease amendment with Ferry Park, LLC to operate food and retail establishments in the Cape May Terminal Building of the Cape May Lewes Ferry.

Background for Resolution:

Effective June 1, 2021, Ferry Park, LLC entered into a Lease Agreement with the Authority for the restaurant at the Cape May Ferry Terminal. Due to ongoing economic impacts to Ferry Park, the Authority is resetting the economic terms of the lease to reduce the first-year annual base rent to \$35,251, reduce the second-year annual base rent to \$125,000 and to reduce the third-year rent to \$225,000. In addition, the Authority will not charge Ferry Park for its Proportionate Share of Operating Costs and Utilities or for Percentage Rent from June 1, 2021, through May 31, 2022. To the extent that Ferry Park, LLC has already base rent for months 8-12 of the first year of the lease, those payments will be credited to the base rent due for the second year of the lease.