

RESOLUTION 21-36-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 have periodic exclusive access to the contiguous green; and

WHEREAS, on April 20, 2021, the Board passed Resolution 22-10 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 while other terms and conditions forth in Resolution 21-10 remained unchanged; and

WHEREAS, that change contemplated a monthly base rent of One-Thousand Dollars (\$1,000.00) for a period of three months; and

WHEREAS, Ferry Park. LLC has not yet obtained approval for it to sell and serve alcohol from the New Jersey Division of Alcoholic Beverage Control; and

WHEREAS, liquor service and sales are being done by the Authority on behalf of Ferry Park, LLC pursuant to a Concessionaire Agreement between the parties which is incorporated into the lease; and

WHEREAS, the Authority has been advised that New Jersey Division of Alcoholic Beverage Control is requiring some changes to the Concessionaire Agreement while it reviews Ferry Park, LLC’s application; and

WHEREAS, the parties have agreed to adjust the monthly base rent, retroactive to September 1, 2021, to One Thousand Dollars (\$1,000.00) per month during the first year of the lease; and

WHEREAS, the monthly base rent reduction shall immediately cease upon issuance of a permit for the sale and service of alcohol from the New Jersey Division of Alcoholic Beverage Control to Ferry Park, LLC; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of a Lease Amendment 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.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of an amended Concessionaire agreement and, with the advice and consent of counsel, to have such agreement executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 21--36 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 Date: September 20, 2021

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: Ferry Park, LLC entered into a Lease Agreement with DRBA for the restaurant at the Cape May Ferry Terminal. Ferry Park must continue to serve and sell alcohol under a Concessionaire Agreement with the DRBA until their permit for the sale and service of alcohol is granted by the State of New Jersey New Jersey Division of Alcoholic Beverage Control has requested amendments to the Concessionaire Agreement while it reviews Ferry Park's application. In May, DRBA agreed to reduce base rent to \$1,000.00 per month for a period of three months while NJABC reviewed Ferry Park, LLC's application. Ferry Park has not yet received NJABC approval. DRBA intends to continue this reduced rent (including retroactively for the month of September 2021) until such time as Ferry Park obtains the appropriate permit to serve and sell liquor from NJABC. All other terms and conditions previously authorized by the Board in Resolutions 21-10 and 21-22 remain unchanged.