

RESOLUTION 23-03 - 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, the Board subsequently passed Resolutions 21-36 and 22-11, which modified the original terms and conditions of the lease; and

WHEREAS, the Authority recognizes that Ferry Park LLC has made all required 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, the base rent paid by Ferry Park LLC will be unchanged at \$183,333 per year; and

WHEREAS, for the year June 1, 2023 through May 31, 2024 only, Ferry Park will pay no “additional rent” related to revenues; and

WHEREAS, through the expiration of the current lease, common area maintenance (“CAM”) will be calculated as 0.5% of revenues, and utility costs will be calculated as 2.0% of revenues; and

WHEREAS, for the period February 1, 2023 through September 30, 2023, Ferry Park LLC will be required to meet metrics related to labor costs and cost of goods sold (“COGS”); 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 23-03 Executive Summary

Resolution: Authorizing the execution of a Lease Amendment between the Delaware River and Bay Authority and Ferry Park, LLC at the Cape May Ferry Terminal

Committee Budget and Finance

Committee/Board Date: January 18, 2023

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. The Authority modified the original terms of the lease via Resolutions 21-36 and 22-11.

The Authority recognizes that Ferry Park has made all of its contractually mandated capital improvements.

Due to ongoing economic impacts to Ferry Park, the Authority wishes to further modify the lease terms and conditions, while retaining the original rent structure.

For the year June 1, 2023 through May 31, 2024 only, Ferry Park will not be required to pay “additional rent” based on revenues, but only base rent of \$183,333.

The formula for calculating CAM and utility costs for the remainder of the lease will be modified as follows:

--CAM, 0.5% of revenues

--Utilities, 2.0% of revenues.

For the period February 1 through September 30, 2023, Ferry Park will be required to meet metrics related to labor costs and COGS.