

RESOLUTION 23-09 - LEASE AMENDMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND OMG ON THE ROCKS, LLC T/A GRAIN CRAFT BAR + KITCHEN ON THE ROCKS, A WHOLLY OWNED SUBSIDIARY OF OMG DINING LLC, AT THE LEWES 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 Lewes, Delaware (the “Lewes Terminal Building”); and

WHEREAS, OMG On the Rocks, LLC T/A Grain Craft Bar + Kitchen On the Rocks, a wholly owned subsidiary of OMG Dining, LLC (“Grain”) has entered into a Lease Agreement with an initial term of ten years for approximately 10,480 rentable square feet of space in the Lewes Terminal Building and 6,705 rentable square feet of contiguous patio space (the “Leased Premises”) and periodic exclusive access to the contiguous green; and

WHEREAS, on October 15, 2019, the Board passed Resolution 19-40 authorizing the Executive Director to finalize the terms and conditions of the Lease Agreement with Grain; and

WHEREAS, the Authority recognizes that Grain has made all required capital improvements to the Lewes Ferry Terminal, and

WHEREAS the Authority has determined that Grain’s continued success is in the Authority’s best interest, and

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

WHEREAS, effective January 1, 2023 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, the rent paid by Grain, and all other provisions of the lease, will be unchanged; and

WHEREAS, the aforesaid CAM and utility cost calculation formulae are equal to those now charged Ferry Park LLC at the Cape May Terminal; 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 Grain and, with the advice and consent of counsel, to have such Lease Amendment executed by the Chairperson, Vice Chairperson, and the Executive Director.

Resolution 23-09 Executive Summary

Resolution: Authorizing the execution of a Lease Amendment between the Delaware River and Bay Authority and Grain at the Lewes Ferry Terminal

Committee: Budget and Finance

Committee/Board Date: February 22, 2023

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

Background for Resolution:

Effective June 1, 2020, Grain entered into a Lease Agreement with the Authority for the restaurant at the Lewes Ferry Terminal.

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

In order to ensure the continued success of Grain, the Authority wishes to modify the formulae for calculating CAM and utility costs, while retaining the original rent structure and all other terms and conditions of the lease.

Effective January 1, 2023, the formulae 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.

This formula is identical to the one now charged to Ferry Park LLC at the Cape May Terminal.