

RESOLUTION 24-18 - 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 rentable space in the Lewes Terminal Building and rentable square contiguous patio space (the “Leased Premises”), plus periodic exclusive access to the contiguous green; and

WHEREAS, on October 15, 2019, the Board passed Resolution 19-40 authorizing the execution of a Lease Agreement with Grain; and

WHEREAS, on February 22, 2023, the Board passed Resolution 23-09 authorizing the Executive Director to modify the terms and conditions of the Lease Agreement with Grain relating to Common Area Maintenance (CAM) and utility costs; and

WHEREAS, the Authority recognizes that Grain has made all required capital improvements to the Lewes Ferry Terminal, and is current on all payments due; 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 June 1, 2024, Grain will pay a monthly rent of \$9,200 or 14.5% of gross revenue (excluding alcohol sales), whichever is greater; and

WHEREAS, effective with this lease amendment, on or after September 1, 2025, the Authority may terminate the lease for convenience, upon 30 days advance notice; and

WHEREAS, CAM and utility payments and all other provisions of the lease will be unchanged; 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 24-18 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: May 21, 2024

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 original terms of the Lease Agreement were modified via Resolution 23-09, dated February 22, 2023.

Grain has made all of its contractually mandated capital improvements and is current on all rent, Common Area Maintenance (CAM), and utility payments.

Effective June 1, 2024, Grain will pay a monthly rent of \$9,200 or 14.5% of gross revenue (excluding sales of alcohol), whichever is greater.

Effective with this lease amendment, on or after September 1, 2025, the Authority may terminate the lease for convenience, upon 30 days advance notice.

CAM and utility costs, and all other terms, will remain unchanged for the remainder of the lease.