

**9791. RESOLUTION 08-26 - LEASE AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND BRIAN MARKER D/B/A AS CAPE AIR FOODS, LLC AT THE CAPE MAY AIRPORT**

WHEREAS, The Delaware River and Bay Authority (the "Authority"), is the operator of the Cape May Airport ("Airport"); and

WHEREAS, Cape Air Foods, LLC desires to lease approximately 1.425 square feet of restaurant space in the Airport Terminal Building ("Facility Space"); and

WHEREAS, Cape Air Foods, LLC has agreed to pay the Authority an annual Facility Rent in the amount of \$1.00 for the rental of the Facility Space and pay for the proportional use of all utilities during the initial term of the Lease Agreement; and

WHEREAS, the initial term of the Lease Agreement is for one (1) year; and

WHEREAS, in addition to the above stated Facility Space rent, Cape Air Foods, LLC has agreed to pay fair market value rent ("Land Rent") for the lease of the land needed to operate the Restaurant; and

WHEREAS, Cape Air Foods, LLC, with the prior consent of the Authority, shall have the option of renewing this Lease Agreement for two (2) option periods of one (1) year each; and

WHEREAS, rent and other terms and conditions of the Lease Agreement during the option periods shall be determined as follows: (1) Land Rent for the initial year of each option period shall be based upon fair rental value determined by Authority appraisal and (2) Facility Space rent for the initial year of each renewal period shall be based on fair rental value as determined by the Authority after a review of Cape Air Foods, LLC's audited financial statements and any other factors that may be deemed relevant at the sole discretion of the Authority.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the Lease Agreement with Cape Air Foods, LLC and, with the advice and consent of counsel, to have such Lease Agreement executed by the Chairperson, Vice Chairperson, and the Executive Director.

A motion to approve Resolution 08-26 was made by Commissioner Smith, seconded by Commissioner Lathem and approved by a roll call vote of 11-0.