

9391. RESOLUTION 06-16 - LEASE AGREEMENT BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND THE COMMISSIONERS OF FIRE DISTRICT NO. 3 IN ERMA, CAPE MAY COUNTY, NEW JERSEY. The Executive Director presented the following Resolution. The Executive Director presented the following Resolution.

WHEREAS, the County of Cape May (the “County”) and The Commissioners of Fire District No. 3 (the “Tenant”) executed an Interlocal Agreement on or about March 23, 1993; and

WHEREAS, the Interlocal Agreement set forth certain rights and obligations between the County and the Tenant regarding the construction of a joint firehouse facility on the grounds of the Cape May County Airport (the “Erma Firehouse”); and

WHEREAS, the Interlocal Agreement provided that, once construction of the Erma Firehouse was completed, Tenant as Grantor, was required to create a condominium regime on the subject parcel arranging for the conveyance of fee simple title to two units – one for itself and the other unit to the County; and

WHEREAS, the County entered into an Acquisition Agreement dated December 15, 1998 and a Ground Lease dated June 8, 1999 with the Delaware River and Bay Authority (the “Authority”) pursuant to which it leased the whole of the Cape May County Airport (the “Airport”) including the portion of the property commonly referred to as the Erma Firehouse to the Authority; and

WHEREAS, the circumstances have changed the dynamics at the Airport, namely, the Airport is no longer required to man an Airport Rescue and Fire Fighting facility by the Federal Aviation Administration; and

WHEREAS, it was the opinion of the County and Tenant to amend the terms of the Interlocal Agreement to delete the obligation of the Tenant to create a condominium regime for the Erma Firehouse following the conveyance of the County’s interests in said parcel; and

WHEREAS, the Tenant has utilized, managed, maintained and operated the Erma Firehouse since its construction and desires to utilize, manage, maintain and operate the entire Erma Firehouse, including that portion subject to Authority’s leasehold interest created via the Acquisition Agreement and Ground Lease; and

WHEREAS, Authority has generally only used a portion of the Erma Firehouse for storage and as of September 22, 2005, the Authority has not been using any portion of the Erma Firehouse for any reason whatsoever and no longer has any need for continued use of any portion of the Erma Firehouse at this time; and

WHEREAS, the Authority has determined that it is prudent to lease its portion of the Erma Firehouse to Tenant to promote fire and emergency protection and response services

throughout the surrounding areas for the duration of the Acquisition Agreement and Ground Lease; and

WHEREAS, the initial term of this Lease Agreement shall expire on June 7, 2029; and

WHEREAS, if the Authority's Ground Lease with the County is extended for one or two of the options, the Tenant's Lease Agreement shall expire on June 7, 2059 or June 7, 2089, as the case may be; and

WHEREAS, as consideration for the Authority leasing its portion of the Erma Firehouse to Tenant, Tenant agrees to:

1. Pay the Authority an annual rent equal to One Dollar (\$1.00);
2. Provide fire and emergency protection and response services throughout the surrounding areas;
3. Waive any and all claims against the Authority and/or the County for any expense associated with the Erma Firehouse; and
4. Be fully responsible for the use, management, maintenance and/or operation of the Erma Firehouse; and
5. Comply with all the terms of the Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to finalize the terms and conditions of the Lease Agreement with the Commissioners of Fire District No. 3 and, with the advice and consent of counsel, to have such Agreement executed by the Chairperson, Vice Chairperson, and Executive Director.

On motion by Commissioner Favre, seconded by Commissioner Dorn, Resolution 06-16 was approved by a roll call vote of 9-0.