

**RESOLUTION NO. 24- 55 - AUTHORIZING A SUBLEASE OF THE LEASE BETWEEN THE DELAWARE RIVER AND BAY AUTHORITY AND OMG ON THE ROCKS, LLC D/B/A GRAIN CRAFT BAR + KITCHEN ON THE ROCKS, 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 D/B/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 continuous patio space (the “Leased Premises”), plus periodic exclusive access to the continuous green; and

WHEREAS, on May 21, 2024, the Board passed Resolution 24-18 authorizing the execution of a Lease Amendment between the Delaware River and Bay Authority and Grain at the Lewes Ferry Terminal; and

WHEREAS, the amendment contemplated by Resolution 24-18 was never executed;

WHEREAS, Grain now desires to sublease the entirety of the Leased Premises to On The Rocks LLC (“Highwater”); and

WHEREAS, the Authority now desires to revoke Resolution 24-18 and authorize and consent to the sublease of the entirety of the Leased Premises under the Lease Agreement between Grain and Highwater.

NOW THEREFORE BE IT RESOLVED that Resolution 24-18 is hereby revoked and of no further force and effect; and

FURTHER RESOLVED that the Executive Director is hereby authorized, with the advice and consent of counsel, to finalize the terms and conditions of the Commercial Sublease that Grain and Highwater desire to enter into and to have the Commercial Sublease executed by the Chairperson, the Vice Chairperson and the Executive Director.

## **Resolution 24-55 Executive Summary Sheet**

**Resolution:** Authorizing a sublease of the Lease between the Delaware River and Bay Authority and OMG ON THE ROCKS, LLC D/B/A Grain Craft Bar + Kitchen On the Rocks, at the Lewes Ferry Terminal

**Committee:** Budget and Finance

**Committee/Commission Date:** November 19, 2024

### **Purpose of Resolution:**

The Authority desires to revoke Resolution 24-18 and consent to a sublease of the entirety of the Leased Premises between Grain and Highwater so that Highwater may 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 and the Authority contemplated a second amendment, which was authorized by Resolution 24-18, but this second amendment was never executed and has been abandoned.

Grain now desires to sublet the entirety of the Leased Premises to Highwater, such sublease being conditioned upon Highwater's ability to obtain a liquor license for the Leased Premises comparable to the liquor license currently held by Grain.

No amendments to the Lease Agreement are being contemplated in connection with this sublease.