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## NEWS RELEASE

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## Statements on Fish Heads Restaurant Relocation

**ATLANTIC CITY, N.J. (May 3, 2022)** – The City of Atlantic City is releasing the following statement on the relocation of Fish Heads restaurant:

*“In 2016, Fish Heads entered into a lease agreement with the Gardner’s Basin Historic Foundation to operate a food trailer at the Basin. In 2017, the City of Atlantic City was notified by the National Parks Service of violations at the Basin. While the City was attempting to resolve the violations and bring the park into compliance with the outdoor recreation use standards of the Green Acres and the Land and Water Conservation Fund (LWCF) programs, Fish Heads was permitted to remain at the Basin under a Park Management Agreement with Scarborough Properties. However, Fish Heads’ agreement expired when the City terminated its agreement with Scarborough Properties in December 2018.*

*Fish Heads was awarded a license agreement in June 2019 that permitted them to continue operating subject to final state and federal approvals. This agreement was set to automatically expire in September 2019. On May 27, 2020 Fish Heads was sent a notice that it would have to remove its trailer from the Basin. Despite this, the City allowed Fish Heads to operate as a holdover tenant on a month-to-month basis through the 2021 season as the City intended to bid out the Basin’s food service locations. In 2020, Fish Heads signed a document indicating that its use of the premises was subject to Green Acres restrictions.*

*Fish Heads was notified that it must relocate after the City released Requests for Proposals (‘RFPs’) to lease the two primary restaurant sites at Gardner’s Basin—presently used by Gilchrist and Back Bay Ale House—due to certain requirements of the federal National Park Service and the Land and Water Conservation Fund (Green Acres Rules). Specifically, National Parks Service limits the number of restaurants permitted at Gardner’s Basin. In March 2022, the City released RFPs for the Gilchrist and Back Bay Ale House sites. Fish Heads opted not to compete.*

*As a result, the City provided Fish Heads with final notice that it must relocate its business. The Mayor’s Office offered to assist Fish Heads with arranging alternative business sites, including sites outside the Green Acres’ boundary at the Basin seawall and at the Atlantic City Walk. Fish Heads did not take advantage of these offers. Ultimately, the City has complied with its legal requirements to provide Fish Heads notice—and has gone above and beyond to accommodate Fish Heads, recognized as a long-standing minority-owned business in the*

*City. However, as a public entity, the City is restrained from offering specific support or advantages to any private entity, especially when such options may violate State or Federal regulations.”*

The New Jersey Department of Environmental Protection is taking the same position as the City of Atlantic City. The DEP is releasing the following statement on the relocation of Fish Heads restaurant:

*“Gardner’s Basin is a 12-acre waterfront park in Atlantic City that was developed with funds through the New Jersey Green Acres Program as well as the Land and Water Conservation Fund Act (LWCFA), which is administered by the U.S. Department of the Interior, through the National Park Service. The entire property in Gardner’s Basin is, therefore, subject to the rules, regulations and restrictions required by both the DEP’s Green Acres Program and the National Park Service.*

*Gardner’s Basin at one time had four permanent food establishments: the Back Bay Ale House, a full-service restaurant; Gilchrist Restaurant, which serves breakfast and lunch; the seasonal AC Sweets and Treats ice cream shop; and Scales Restaurant, a full-service establishment that was destroyed during Superstorm Sandy in 2012 and never resumed operations at Gardner’s Basin. Green Acres and LWCFA restrictions limit the use of the Gardner’s Basin property to public outdoor recreation. Restrictions further require that food service operations at the property are to support the park in a manner consistent with public use of the site; they are not to be freestanding commercial enterprises or destination establishments.*

*In 2016, the Green Acres Program reviewed a redevelopment plan proposing construction of another restaurant where Scales had been, to determine whether the plan would comply with state and federal restrictions at Gardner’s Basin. After reviewing the plan and consulting with the National Park Service, the Green Acres Program advised Atlantic City in 2018 that it would permit two food service facilities to operate at the property (at the time Gilchrist Restaurant and either the Back Bay Ale House or a restaurant to replace Scales – not both). The Green Acres Program further advised Atlantic City in 2018 that food trucks may be brought in for specific park events, but could not become permanent food establishment sites at Gardner’s Basin.*

*The Department understands that Atlantic City released a Request for Proposal in March 2022 to lease the two primary restaurant sites at Gardner’s Basin, and Fish Heads opted not to compete. The Department understands that the City then advised the Fish Heads food truck operator that remaining on site would not comply with the Green Acres and National Park Service restrictions, and that the food truck would have to move elsewhere.”*

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