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LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 1st day of April, 2022 by and between The City of Atlantic City ("Landlord"), located at 1301 Bacharach Blvd., Atlantic City, New Jersey 08401, and Gilchrist Enterprises, Inc. ("Tenant"), whose address is 804 North Rhode Island Avenue, Building #10, Atlantic City, New Jersey 08401.

BACKGROUND

A. Landlord is the owner of certain real property and improvements thereon known as Historic Gardner's Basin, (Block 103, Lot 6), located at 800 N. New Hampshire Avenue in the City of Atlantic City, County of Atlantic, State of New Jersey (the "Property").

B. The Property is a public park listed on the City's Recreation and Open Space Inventory ("ROSI") and governed by the New Jersey Department of Environmental Protection (the "Department") rules applicable to Green Acres parkland, N.J.A.C. 7:36-1 et seq. and the rules and regulations of the federal National Park Service (the "NPS") pursuant to the Land and Water Conservation Fund ("LWCF") (collectively, the "Green Acres Rules"), which Green Acres Rules are specifically defined in Section 5(a) herein.

NOW, THEREFORE, for and in consideration of the rents, covenants and agreements hereinafter reserved, and for other good and valuable consideration exchanged and received each by the other, the parties hereto, intending to be legally bound, hereby agree as follows.

TERMS

1. **Lease**

1.1 Subject to the following terms and provisions and the terms and provisions set forth, the Landlord hereby leases to Tenant, and Tenant hereby accepts from Landlord, the exclusive use of Building #10, containing 1,320 square feet and one floor, on the Property, and more specifically depicted in the attached aerial photo **(Schedule A)** and by this reference made a part hereof (the "Premises"). Tenant is not authorized to occupy or use any other area within the Park except the Premises. The Premises does not include any boat slips, or any right to dock vessels anywhere on the Property. Tenant shall also have non-exclusive use of the adjacent deck for patron seating at any time that the business is operating, provided that public access to the deck is not prohibited for the purpose of viewing the water at the railing during meal seatings, and for sitting and viewing at other times.

1.2 This Lease is contingent upon the approval of the Department in accordance with the Green Acres Rules.

1.3 This Lease shall also be contingent on Tenant obtaining the appropriate municipal approvals, including a certificate of occupancy, land use certificates, mercantile license, health department certificate and/or any other required approvals for Tenant's use, as applicable. In the event Tenant is unable to obtain such approvals within thirty (30) days of the date this Lease is fully executed by the parties, either Landlord or Tenant may terminate in which event Landlord shall return the Security and this Lease shall be rendered null and void and the parties shall have no further obligation to each other.

2. Term

2.1 Tenant shall have and hold the Premises for the following Term:

Term:	Three (3) Years
Commencement Date:	April 1, 2022
Expiration Date:	March 31, 2025

Tenant shall have the option to renew for two (2) one (1) year periods at the Landlord's discretion, which may not be unreasonably withheld. **Tenant must submit its request to renew to the Landlord in writing at least three (3) months prior to the expiration of the preceding term.** All renewal terms are subject to Department approval.

2.2 Landlord is not responsible if Landlord cannot give the Tenant possession of the Premises at the start of this Lease. However, rent will only be charged from the date on which possession of the Premises is made available to the Tenant.

2.3 Upon expiration of the Lease, Tenant shall cease operations and quit the Premises, removing all equipment, personal property and trade fixtures promptly and restoring the Premises to the condition it was at the commencement of the Term, reasonable wear and tear excepted. Any property not removed within ten (10) days of the expiration or sooner termination of this Lease may be removed by the Landlord at Tenant's expense. Landlord will not be responsible for the condition of any such property not removed by Tenant when required. Tenant acknowledges however that the cooking hood and system which exists on the Premises are and shall remain the property of Landlord.

3. Rent

3.1 In accordance with Resolution No. 170 of 2022 adopted on March 16, 2022, Tenant shall pay to Landlord the following fixed rent ("Rent') for the Premises during the Term and optional renewal terms:

Year 1	$60,100.00
Year 2	$61,302.00
Year 3	$62,529.00
Optional Renewal Term 1	$63,780.00
Optional Renewal Term 2	$65,056.00

A copy of Resolution No. 170-2022 is attached hereto as **Schedule B** and made a part hereof.

Payment of the first month's Rent is due upon execution of this Lease by Tenant.

3.2 The Tenant must pay a late charge of Fifty Dollars ($50.00) for any payment which is tendered five days after which it is due.

3.3 All payments shall be made on or before the first day of each month at the offices of the Landlord at the address indicated on the first page of this Lease.

3.4 All rental payments received under the Lease shall be used for operating, maintenance or capital expenses related to the City's funded parkland or its recreation program as a whole.

4. **Use of Premises**

4.1 Tenant shall use and occupy the Premises during the Term as a seasonal restaurant to support the park patrons of Gardner's Basin during the breakfast and lunch hours. Tenant's use and operation of the Premises, and its conduct of its business, shall be and remain subject to and in accordance with the Green Acres Rules and all other applicable laws, ordinances, rules, regulations, requirements and directives of all governmental agencies and authorities having jurisdiction over the Premises and the use thereof. No other use or occupancy of the Premises is permitted. Tenant's use of Premises shall not adversely impact public access, use and enjoyment of the Property.

4.2 There shall not be any use of the Premises by Tenant, its guests, invitees and employees in any manner other than a safe and prudent one. There shall be no profanity, intoxication, abusive conduct or actions which might interfere with the rights, comforts and conveniences of other boaters or other tenants at the Property. Tenant shall not for any reasons either allow or cause to be parked any vehicle on the ornamental brick work, sidewalks or lawns. Storage boxes or other appurtenances shall not be placed into, on or around the Premises. Tenant shall not conduct nor permit any activity to be conducted on the Premises which could result in either (i) an increase in the rate of fire or liability insurance; or (ii) the cancellation of such insurance covering the Premises.

4.3 Tenant shall be open for business from April 1 through November 1 of each calendar year as follows:

April 1 through June 14:	Six (6) days each week
June 15 through September 15:	Seven (7) days each week
September 16 through November 1:	Six (6) days each week

Outside of those months, Tenant may continue its restaurant operation at Tenant's discretion, subject to the weather. Tenant shall post a schedule of hours of operation at the Premises in a prominent area visible to the public. Any changes in the hours of operation shall require the prior consent and approval of the Landlord. Landlord shall have two (2) weeks after receipt of a written request for a change in hours to approve (with or without conditions) or deny the request.

5. **Green Acres Rules** Tenant acknowledges and agrees that:

5.1 Landlord has selected Tenant and awarded this Lease in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

5.2 Notwithstanding anything to the contrary contained herein, the Tenant's rights under this Lease shall be subject to, limited by and exercised in accordance with the Green Acres Rules at N.J.S.A. 13:8C-1, et seq. and N.J.A.C. 7:36, et seq., as may be amended and supplemented, including the LWCF implementing guidelines at 36 C.F.R. 59. Furthermore, the Landlord shall exercise its rights under the Lease to ensure that the Premises continues to be operated for conservation and recreation purposes in accordance with the Green Acres Rules.

5.3 The activities conducted on the Premises must be conducted in a manner that affords "reasonable public access" to the Premises. Specifically, Tenant shall allow members of the public to use the bathroom on the Premises if necessary to supplement the existing public bathrooms servicing Gardners Basin;

5.4 Tenant shall comply with all state and federal civil rights and accessibility legislation, including Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, along with their state equivalents and their respective enabling regulations. By way of example and not limitation, Tenant shall not discriminate against any worker, employee, contractor, or applicant, or any member of the public, because of race, creed, color, religion, age, sex, national origin or handicap, nor otherwise commit an unfair employment practice and shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, religion, age, sex, or national origin;

5.5 All meal and drink prices charged by Tenant to the public shall be competitive with similar facilities operated on private property;

5.6 Tenant acknowledges that Landlord, the Department and NPS each have the authority to periodically review this Lease and Tenant's operations of the Premises to determine whether such operations comply with the Green Acres Rules, and each may terminate this Lease in the event it is determined that Tenant's operations violate the Green Acres Rules.

6. Condition of Premises

The Premises, including all the improvements thereon, shall be and hereby are leased to and accepted by Tenant in their condition as of the date of execution hereof and without representation or warranty of any kind by Landlord including, without limitation, any representations or warranty of fitness for a particular purpose or use. Tenant has made a physical inspection of the Premises, and acknowledges it has found the Premises satisfactory for all purposes hereof, and Tenant shall be deemed to have found all the improvements thereon satisfactory for all purposes hereof. Tenant acknowledges that it is not relying on any representation by Landlord concerning the Premises and that the Premises is being accepted "AS IS."

7. Net Lease; Quiet Enjoyment; Additional Rent

7.1 This is a net lease, the intention of the parties being that this Lease shall yield to Landlord the Rent specified herein during the Term of this Lease, and that all other costs, expenses and obligations of every kind and nature whatsoever relating to Tenant's operation on the Premises shall be paid by Tenant.

7.2 Subject to Tenant's adherence to the Lease requirements and any contrary determination by the Department, Landlord covenants that Tenant shall have continuous, peaceful and exclusive possession and quiet enjoyment of the Premises during the Term of this Lease.

7.3 Tenant shall pay, as additional rent hereunder ("Additional Rent"), all charges for water, sewer, gas, light, heat, telephone, excess electricity, power and other utility and communications services rendered or used on or about the Premises during the Term or in connection with Tenant's occupancy of the Premises. Any penalties levied pursuant to Tenant's violation of Section 5 hereof shall also be considered "Additional Rent." If Tenant fails to comply with any provision of this Lease, Landlord may do so (but is not obligated to do so) on behalf of Tenant. In such event, Landlord may charge the cost to comply to Tenant as "Additional Rent." All Additional Rent payments shall be made within ten (10) days of the date of the written demand or invoice from Landlord. Tenant's failure to make any such Rent or Additional Rent payments as and when required shall be grounds for termination of this Lease.

8. Insurance; Indemnification

8.1 Insurance.

(a) Tenant shall at all times during the applicable Term hereof maintain or cause to be maintained, at its sole cost and expense, the following insurance:

Commercial General Liability Insurance

$1,000,000 Each Occurrence (Bodily Injury and Property Damage)
$2,000,000 General Aggregate
$2,000,000 Product/Completed Operations Aggregate
$1,000,000 Personal and Advertising Injury.
Contractual Liability that will respond to the Indemnification agreement included in this Lease, shall be included in the policy. If the Tenant has more than one location, the General Aggregate Limit shall apply separately to these leased premises. As an alternative, Tenant may provide Commercial General Liability Insurance with no General Aggregate.

Liquor Liability Insurance

$1,000,000 Each Occurrence
$2,000,000 Aggregate
Required if Tenant is in the business of selling or serving alcohol.

Comprehensive Automobile Liability Insurance

$1,000,000 Combined Single Limit Bodily Injury and Property Damage.
Coverage must include all owned, non-owned and hired vehicles used by the Tenant.

Workers' Compensation and Employers' Liability Insurance

$500,000 Each Accident
$500,000 Each Employee for Injury by Disease
$500,000 Aggregate for Injury by Disease.
If Tenant is a Sole Proprietor, Partnership or LLC, Insurance Policy and Certificate must indicate that the proprietor/partners/members are "included". This requirement does not apply if inclusion is not allowed by state law.

Umbrella Liability Insurance

$1,000,000 per Occurrence
$1,000,000 Aggregate
Contractual Liability and the General Aggregate shall apply on the same basis as the primary insurance. The umbrella coverage shall apply excess of the General Liability, Auto Liability and Employer's Liability coverages. It shall include Contractual Liability, Additional Insureds and the General Aggregate per location on the same basis as the underlying coverage.

Property Insurance

Tenant shall insure their contents for a limit equal to their 100% Replacement Cost. Business Income insurance will be included for a limit equal to one (1) full season's income. Special Form perils or equivalent coverage will apply.

(b) Landlord, the Department and NPS, along with their respective elected or appointed officials, officers, agents and employees, shall be named as Additional Insureds on the Tenant's Commercial General Liability Policy which must be primary and noncontributory with respect to the Additional Insureds. All Additional Insureds shall receive the same protection and coverage as Landlord.

(c) It is expressly understood by the parties to this Agreement that it is the intent of the parties that any insurance obtained by the Landlord is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the Tenant, its officers, agents, subcontractors, employees or anyone directly or indirectly employed by any of them or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law.

(d) A Waiver of Subrogation Clause shall be added to the Property, General Liability and Automobile policies in favor of the Landlord and this clause shall also apply to the Landlord's elected or appointed officials, officers, agents and employees. It should also apply to the Tenant's Workers' Compensation policy if allowed by state law. The Property Waiver of Subrogation will also apply to any deductible included in the Tenant's policy.

(e) Prior to occupancy of the leased premises, Tenant shall submit a Certificate of Insurance in favor of Landlord, the Department and NPS and an Additional Insured Endorsement (in a form acceptable to Landlord) as required hereunder.

(f) Tenant shall maintain in effect all insurance coverages required under this Lease at the Tenant's sole expense. In the event Tenant fails to obtain or maintain any insurance coverage required under this Lease, the Tenant shall be in default hereof and the Landlord may terminate this Lease. In the event the coverage is cancelled or non-renewed, Tenant's insurance companies will provide 30 days advance notice of the cancellation or non-renewal to Landlord.

(g) Such insurance shall be written by companies of recognized financial standing which are legally qualified to issue such insurance in the State of New Jersey.

(h) Tenant shall not do or commit or willingly suffer to be done or committed, any act, matter or thing, which could cause any insurer insuring the Property, regardless of whether such insurance is held by the Landlord or Tenant, to void, cancel or rescind coverage, or which would cause any insurance held by the Landlord or Tenant to have a more expensive rating.

(i) Tenant shall notify Landlord of any loss, damage or injury which occurs to Tenant, or to its employees, guests or invitees, including any member of the public visiting the Premises.

8.2 Indemnification

(a) Tenant shall pay, protect, indemnify and save harmless Landlord, the Department and NPS (collectively the "Indemnified Parties" and individually an "Indemnified Party") from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorney's fees and expenses), and causes of action suits, claims, demands or judgments of any nature arising from or related to:

i) Any damage to Property or injury to, or the death of, any person in or on the Premises for any reason or cause except if caused in whole or part by an Indemnified Party;

(ii) Any damage to property in, on, or about, the Premises or the park, including any improvements now or hereafter erected thereon, whether or not damage or injury arises from

or is connected with Tenant's use or occupancy of the Premises, including the business conducted thereon by Tenant, which is caused by Tenant or its agents, employees, servants, vendors, contractors, Tenants, licensees or business invitees; and

(iii) Violation of any agreement or condition of this Lease, or any laws, ordinances, or regulations now or hereafter affecting the Premises, or the ownership, occupancy or use thereof, by Tenant or its agents, employees, servants, vendors, contractors, Tenants, licensees or business invitees.

(b) Tenant's obligations to indemnify and save harmless the Indemnified Parties as described in Section 8.2(a) above shall apply fully to each Indemnified Party.

(c) Tenant hereby releases and waives all claims against the Indemnified Parties and their agents, members or principals for loss of life, personal injury or damage to property or business sustained by Tenant or any person claiming through Tenant, resulting from any fire, accident, weather event, occurrence or condition in or upon the Premises, or any damages incurred in connection with or resulting from any (i) condition on or affecting the Premises; (ii) weather event; (iii) defect in or failure of any system, equipment, facility, or structure servicing the Premises; (iv) any act or omission of the Indemnified Parties, except to the extent required by any applicable law..

(d) In any and all claims against the Additional Insureds by any employee of Tenant, anyone directly or indirectly employed by Tenant or anyone for whose acts the Tenant may be liable, the indemnification obligation shall not be limited by any limitation on the amount or type of damage, compensation or benefits payable by or for Tenant under workers' compensation acts, disability benefit acts or other employee benefit acts.

9. Alterations and Improvements

9.1 Except as otherwise set forth herein, Tenant shall not make any other additions, alterations to or improvements upon the Premises without the prior written consent of the Landlord and the Department, which consent may be withheld, delayed or conditioned in their sole and absolute discretion. All approved alterations or improvements shall remain the property of Landlord, as appropriate, at the expiration of this Lease, except for movable trade fixtures and equipment which have been installed by Tenant and which shall be removed in accordance with Section 2.3 hereof.

9.2 Tenant may construct any improvements or alterations approved by the Landlord at its sole cost and expense, and with no credit against Rent. Tenant shall promptly pay for the cost of such improvements and alterations and shall, upon the making of any payment, obtain a waiver from all contractors and subcontractors of their right to file a mechanic's lien performed to the Premises. If any such lien or encumbrance is filed or entered, Tenant shall have it removed of record within fifteen (15) days after it is filed or entered either by paying it, having it bonded in a manner which causes its removal of record, or otherwise causing its removal of record.

9.3 Upon the expiration or the sooner termination of this Lease, all improvements and alterations installed by Tenant shall, at the option of the Landlord, remain with the Premises and become Landlord's property, or such alterations and improvements as Landlord directs shall be removed from the Premises prior to the expiration or termination date of this Lease

10. Repairs and Maintenance

10.1 Tenant shall be responsible, at Tenant's expense, to:

(a) promptly comply with all laws, orders, rules and requirements of governmental authorities, insurance carriers, board of fire underwriters, or similar groups or entities;

(b) maintain the interior and exterior of the Premises including all mechanical systems, equipment and fixtures, including, but not limited to, hood, Ansel system, grease traps, stoves and ovens in good, clean repair and appearance;

(c) make all necessary repairs to the interior and exterior of the Premises and to all equipment, systems and fixtures in it, including any repairs or replacement of the roofing system;

(d) keep and maintain the Premises and adjacent area in a neat, clean, safe and sanitary condition, free of all trash, debris and garbage and in compliance with recycling regulations and ordinances. All refuse shall be kept in odor-proof, rodent-proof containers in the area designated by the Landlord shielded from view of the general public;

(e) promptly and immediately replace all broken glass in the Premises, regardless of cause;

(f) do nothing to destroy, deface, damage, or remove any part of the Premises;

(g) promptly notify Landlord when there are conditions requiring repair which may impact park operations;

(h) avoid littering in the building or on its grounds;

(i) maintain and make necessary repairs to the plumbing, cooling, heating, air-conditioning and electrical systems that pertain to Tenant's Premises. Advance notice shall be provided to Landlord along with confirmation that reputable and insured contractors will be performing the work; and

(j) have the Premises periodically inspected for pest and rodent infestation; and if any infestation is discovered, have it treated and eliminated.

10.2 Neither Landlord, the Department nor NPS shall be responsible for any maintenance or repairs of any kind.

10.3 In the event that the Premises, and other improvements are not kept in good and safe condition, order or repair, or are not clean, neat and well maintained as herein required, upon ten (10) days' notice to Tenant, Landlord may, but shall not be obligated to, proceed to make such repairs, cleaning or maintenance and Tenant shall pay to Landlord upon Landlord's demand the actual cost of making such repairs, cleaning or maintenance as Additional Rent payable within ten (10) days of Landlord's demand therefore.

11. Casualty

11.1 In the case of fire of other casualty, Tenant shall give immediate notice to Landlord. If the Premises shall be partially damaged by fire, the elements or other casualty, Tenant shall promptly cause the repair of same, but the Tenant's obligation to pay the Rent hereunder shall not cease. If, in the opinion of Landlord that the Premises is so extensively and substantially damaged as to render then untenantable, then this Lease shall terminate.

11.2 Notwithstanding termination of this Lease pursuant to Subsection 11.1, Tenant shall remain responsible for any casualty-related damage resulting or arising from the careless, negligent, or improper

conduct of Tenant or Tenant's agents, employees, guests, licensees, invitees, Tenants, assignees or successors.

12. Assignment/Modification

12.1 Tenant acknowledges that Landlord has demised the Premises to Tenant on the basis of Tenant's experience and ability in operating the Premises for the purposes set forth herein. Accordingly, Tenant may neither assign nor modify this Lease, nor sublet all or any part of the Premises, nor any improvements now or hereafter erected thereon, without first obtaining the written consent of the Landlord and the Department, which consent may be withheld by the Landlord and the Department in their discretion. All Leases require approval by the Department. A sale, transfer, pledge or other disposition of any interest in Tenant during the Term of this Lease, or any sale, transfer, pledge or other disposition which changes control of Tenant, shall be deemed an assignment of this Lease and, therefore, prohibited.

12.2 In the event an assignment is approved in accordance with Subsection 12.1 hereof, Tenant shall not be relieved of its liability hereunder.

13. Signage

Except for any signage in existence at the Premises as of the Commencement Date, Tenant will not place or suffer to be placed or maintained on any exterior door, wall or window of the Premises any sign, awning or canopy, or advertising matter, decoration or lettering without first obtaining the written approval and consent of the Landlord and the Department in compliance with N.J.A.C. 7:36-5.12.

14. Mortgages

In the event that Tenant executes a mortgage on its leasehold interest in the leased premises, Tenant shall ensure that the mortgage and any other operative loan documents provide that the mortgage is executed upon the condition that: (1) the mortgage and the rights and obligations of the parties thereunder shall be subject to the lease; (2) the lender's exercise of any rights under thereunder shall be subject to, limited by and exercised in accordance with the Green Acres Restrictions at N.J.S.A. 13:8C-1, et seq. and N.J.A.C. 7:36, et seq., as may be amended and supplemented, and any associated bond acts, as the same are applicable to all or any portion of the mortgaged property; and (3) no purchaser at any foreclosure sale shall acquire any right, title or interest in or to the mortgaged property unless said purchaser, or any assignee, agrees to perform all of the terms, covenants and conditions of the lease and operate the mortgaged property for recreation and conservation purposes in accordance with the Green Acres Restrictions.

15. Inspection of Premises; Emergency Repairs

15.1 Landlord, the Department and NPS each may, but shall not be obligated to, enter the Premises at any reasonable time for the purpose of inspecting the Premises to assure itself that the Premises are being appropriately maintained, used, occupied or operated in accordance with this Lease and are being devoted to the uses and purposes herein provided, and that Tenant is performing its obligations under this Lease and the Green Acres Rules.

15.2 In the event of an emergency during the Tenant's absence, Landlord is authorized to make emergency repairs as is practicable, without assuming any risk of loss or damage to the property. Tenant will be responsible for reimbursement for such repairs. Neither Landlord, the Department nor NPS shall be responsible for maintenance.

16. Surrender of Premises; Holding Over

16.1 Upon the expiration or the earlier termination of this Lease, or the termination of Tenant's right to the continued possession of the Premises, Tenant shall peaceably and quietly surrender and deliver up possession of the Premises to Landlord, in the order and condition in which Tenant is obligated to maintain the same by the terms and provisions of this Lease. In the event the Lease is terminated, all personal property must be removed from the premises within one (1) week. The Landlord at its option may remove the property to another location for storage. The Landlord will have a lien on the property if money is owed and may lawfully retain the property until all claims are settled. The Tenant will pay for any and all expenses, including court costs and attorney's fees in the event any action is necessary to enforce any terms or conditions of the Lease.

16.2 If Tenant does not vacate the Premises as and when required, such holding over by Tenant shall not constitute a renewal or extension of this Lease, and Landlord shall be entitled to all of the remedies against Tenant provided hereunder or at law or in equity.

17. Events of Default / Remedies

17.1 Events of Default. Any of the following shall constitute an event of default ("Event of Default") hereunder; namely, if Tenant or any permitted assignee of successor in interest thereto, shall:

(a) Fail to pay when due any Rent, Additional Rent or other sums required to be paid by Tenant, hereunder and such failure to pay continues for a period of ten (10) days after the date on which such payment of payments became due;

(b) Except for the payment of monies which are governed by Subsection 16.1(a) above, fail to perform any covenants, agreements, terms or provisions contained in this Lease, which are the obligation of Tenant, and shall continue such failure for twenty (20) days after the date of notice from Landlord of such failure;

(c) Make an assignment for the benefit of creditors or have an order for relief entered under the Bankruptcy Code, as amended, or otherwise initiate proceedings for the appointment of a receiver of its assets, or file a petition or otherwise initiate any proceedings in any court for a composition of its creditors or relief in any manner from the payment of its debts when due under any State or Federal law, or if any proceedings in bankruptcy or for the appointment of a receiver of Tenant, or proceedings seeking any liquidation, dissolution or similar relief under any present or future federal bankruptcy act or the present or future applicable federal, state or other insolvency statute or law, are commenced against Tenant, and such proceeding or proceedings shall continue undischarged and in effect for a period of sixty (60) days after commencement thereof;

(d) Fail to continuously operate its business, or vacate or abandon the Premises, or suffer this Lease to be taken under any writ of execution, attachment or other process of law, or if this Leases shall by operation of law devolve upon or pass to any other party other than a party, if any, to whom Tenant is authorized to assign this Lease by any express provisions of this Lease;

(e) Cause or suffer to be caused, or undertake any action or fail to take any action, otherwise permit or suffer any action or conduct, which causes or may cause Landlord to be in default of the Lease or the Green Acres Rules.

17.2 Remedies. Upon the occurrence of an Event of Default, Landlord, in addition to any other rights and remedies to which it may be entitled at law, in equity, or both, shall have the following rights and remedies:

(a) To re-enter and repossess the Premises or any portion thereof, and remove all persons and all or any property therefrom, by dispossess proceedings or by any suitable action or proceeding at law, and repossess and enjoy the Premises or any portion thereof, together with all additions, alterations and improvements. Upon recovering possession of the Premises or any portion thereof by reason of or based upon or arising out of an Event of Default on the part of Tenant, Landlord may, at its option, relet the Premises or any part or parts thereof, either in Landlord's name or otherwise, for a term or terms which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the then applicable Term of this Lease and to such person or persons as may in Landlord's discretion be deemed most suitable;

(b) Subject to Landlord's duty to mitigate damages, Tenant shall be liable for any loss of Rent, as the same shall accrue each month, for the balance of the then applicable Term of this Lease, and in computing such loss, there shall be added to the deficiency such reasonable expenses as Landlord may incur in connection with reletting, such as legal expenses and attorney's fees, brokerage fees, and for keeping the Premises in good order or for preparing the Premises for reletting subject to any limitations provided herein; and Landlord may, at its option, make such reasonable alterations, additions and improvements in and to the Premises as Landlord in its sole judgment deems advisable or necessary for the purpose of reletting the Premises or any portion thereof. The making of such alterations, additions, and improvements shall not operate or be construed to release Tenant from liability hereunder as aforesaid, and Landlord shall in no event be liable in any way for failure to relet the Premises or any portion thereof or, in the event that the Premises or any part or parts thereof are relet, for failure to collect the rent thereof under such reletting. If the Premises or any part thereof is sublet by Tenant, Tenant, for itself and its successors and assigns, hereby irrevocably constitutes and appoints Landlord as its and their attorney-in-fact, which such appointment shall be deemed coupled with an interest to collect the rents due by such assignee or Tenant and to apply the same to the Rent Cue and to become due hereunder without in any way effecting Tenant's obligation to pay any unpaid balance of Rent due to become due hereunder; and

(c) To terminate this Lease and the Term hereby created, without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by other performance of any condition, term or covenant broken. Thereupon, Landlord shall be entitled to recover, any and all sums and damages for violation of Tenant's obligations hereunder in existence at the time of such termination, and such additional damages that are the result of Tenant's default.

17.3 The specific remedies to which Landlord may resort under the terms and provisions of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may lawfully be entitled in case of any breach or threatened breach of any provisions of this Lease. The failure of Landlord to insist at any time upon the strict performance of any convenient or agreement, or to exercise any option, right, power or remedy contained in this Lease shall not be construed as a waiver or a relinquishment thereof in the future. The receipt by Landlord of any Rent, or any other sum payable hereunder, with knowledge of the breach of any covenant contained in this Lease, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be deemed to have occurred unless expressed in writing and signed by Landlord. In addition to any other remedies in this Lease provide. Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the covenants, conditions or provisions of this Lease.

17.4 If an Event of Default shall have occurred under this Lease, and an action shall be brought for the enforcement of the terms hereof in which it shall be determined that such Event of Default actually

occurred, Tenant shall pay to Landlord all of the expenses incurred in connection therewith, including reasonable attorney's fees. In the event that Landlord shall, without fault on its part, be made a party to any litigation commenced against Tenant, if Tenant shall at its expense, fail to provide Landlord with counsel reasonably satisfactory to Landlord, Tenant shall pay all costs and reasonable attorney's fees incurred or paid by Landlord in connection with such litigation.

18. Brokers

Tenant and Landlord each represent and warrant to the other that it has not used any broker, finder, seller's agent or similar person or entity in entering into this Lease, and each shall defend, indemnify and hold the other harmless against any and all demands, claims, losses and liabilities, including reasonable attorney's fees, of whatsoever kind or nature arising out of any dealings between it and any broker, finder, seller's agent or similar person or entity in respect of this Lease.

19. Limitation of Liability

Landlord, the Department and NPS shall not be liable for any act or omission except as is otherwise set forth in state and federal statutes governing such liability. In the event of any alleged liability on the part of Landlord, the Department or NPS, Tenant and anyone claiming by or through Tenant shall be bound by all applicable laws governing claims against public entities, including but not limited to, Title 59 of the New Jersey Statutes.

20. Rules and Regulations

20.1 Tenant agrees to conduct all operations and activities on the Premises in compliance with the following rules and regulations (the "Regulations"). Tenant shall:

(a) not erect, affix or display any satellite dish on the exterior or in the interior of the property or at the Premises. No radio, television, stereos, phonograph or other similar devices or aerial attached to such devices shall be utilized by Tenant or installed outside, without prior written consent of Landlord.

(b) advise and cause its vendors, purveyors and delivery people to make deliveries at lawful areas and locations and at times not disruptive of other tenants.

(c) not flush excessive quantities of paper or other materials down the toilet which may cause clogging or back up in the sewerage system.

(d) not act in a disorderly manner or make disturbing noises as to interfere with the peace and quiet of the Landlord or any other tenants or neighbors.

(e) use all electric, plumbing and other facilities in the Premises safely.

(f) use no more electricity than the wiring or feeders to the Premises can safely carry.

(g) not willfully or negligently cause or allow waste, destruction, damage or injury to the Premises.

(h) at all times observe and obey all laws, codes, ordinances, rules and regulations that govern Tenant's use which are now in existence, and which may be imposed from time to time, by any governing authority.

20.2 The Tenant recognizes that the Landlord may, from time to time, adopt additional Regulations or modify existing Regulations which, upon adoption or modification, become part of this

Lease. The failure of the Tenant to abide by the Regulations will constitute an Event of Default as set forth in Section 16 above.

20.3 From time to time, Historic Gardner's Basin will engage in various promotional activities, including brochure distribution and development, which Tenant shall participate in and otherwise support, provided same is at no or minimal cost to Tenant.

21. Notices

All notices, requests, options, elections, demands and other communications hereunder shall be in writing, except to the extent specially provided to the contrary in this Lease, and shall be deemed made, given, exorcised or sent when hand-delivered or forwarded by facsimile transmission, or seven (7) days following the date deposited in the mail or by certified mail, return receipt requested and postage prepaid. All notices shall be addressed to the parties at their addresses set forth above, and if to Landlord, to the attention of the President. A copy of all such notices by Tenant shall be mailed, by certified mail, return receipt requested, postage prepaid, as follows:

If to Landlord, to:

City of Atlantic City
City Hall
1301 Bacharach Blvd.
Atlantic City, NJ 08401
Attn: Solicitor

If to Tenant:

_____
_____
_____

If to the Department, to:

NJDEP Office of Transactions and Public Land Administration
Attn: Compliance Officer
401 E. State St.
P.O. Box 420
Mail Code 401-07B
Trenton, NJ 08625-0420

22. General Provisions

22.1 This Lease constitutes the entire agreement by and between the parties hereto with respect to the transition completed herein, superseding all prior understandings or agreement between the parties.

22.2 Failure by Landlord to insist upon or to enforce any of its rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of Landlord's right to insist upon strict compliance with the provisions hereof. No oral modification hereof shall be binding upon the parties, and any modification shall be in writing and signed by the Parties and approved by the Department.

22.3 This Lease shall be governed by and construed under the substantive laws of the State of New Jersey, except as to the LCWF portion of the Green Acres Rules, adopted pursuant to the Land and Water Conservation Fund Act, 16 U.S.C. 4601 et seq. and implementing guidelines at 36 C.F.R. 59.

22.4 Each covenant and agreement contained in this Lease shall be construed to be a separate and independent covenant and agreement, and the breach of any such covenant or agreement by Landlord shall not discharge or relieve Tenant from Tenant's obligation to perform each and every covenant and agreement of this Lease to be performed by Tenant.

22.5 The article headings as herein used are for the convenience of reference only and shall not be deemed to vary the content of this Lease, or covenants, agreements, representations and warranties herein set forth, or to limit the provisions or scope of any article.

22.6 No party may record this Lease.

22.7 All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or entity may require.

22.8 The recitals to this Lease, as set forth above, are hereby incorporated by this reference into the body of this Lease as if set forth in full.

22.9 Unless otherwise specifically set forth herein, the time for performance of all obligations hereunder shall be deemed of the essence.

23. Security Deposit

Tenant has deposited with the Landlord the sum of _____ **($_____.00) DOLLARS** as security for the payment of the Rent and Additional Rent hereunder, and the full and faithful performance by the Tenant of the covenants and conditions of this Lease. Said sum shall be returned to Tenant, without interest, after the expiration of this Lease, provided that the Tenant has fully and faithfully performed all such covenants and conditions including all payments of Rent and Additional Rent. In the event of Tenant's default under this Lease, the Security may be used to pay any amounts due to cure such default, and Tenant shall, on demand, promptly restore said security to its original amount. Tenant shall not be entitled to interest on the Security.

[signatures on the following page]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

ATTEST:

Paula Celeste

LANDLORD: CITY OF ATLANTIC CITY

By: _____

Date: 12-18-23

WITNESS:

Tracy Cuch

TENANT: GILCHRIST ENTERPRISES, INC.

_____

Date: 10-16-23

This agreement is approved as to form and execution

_____

Peter T. Sallata, Esq., Assistant City Solicitor

Date: 10/16/23

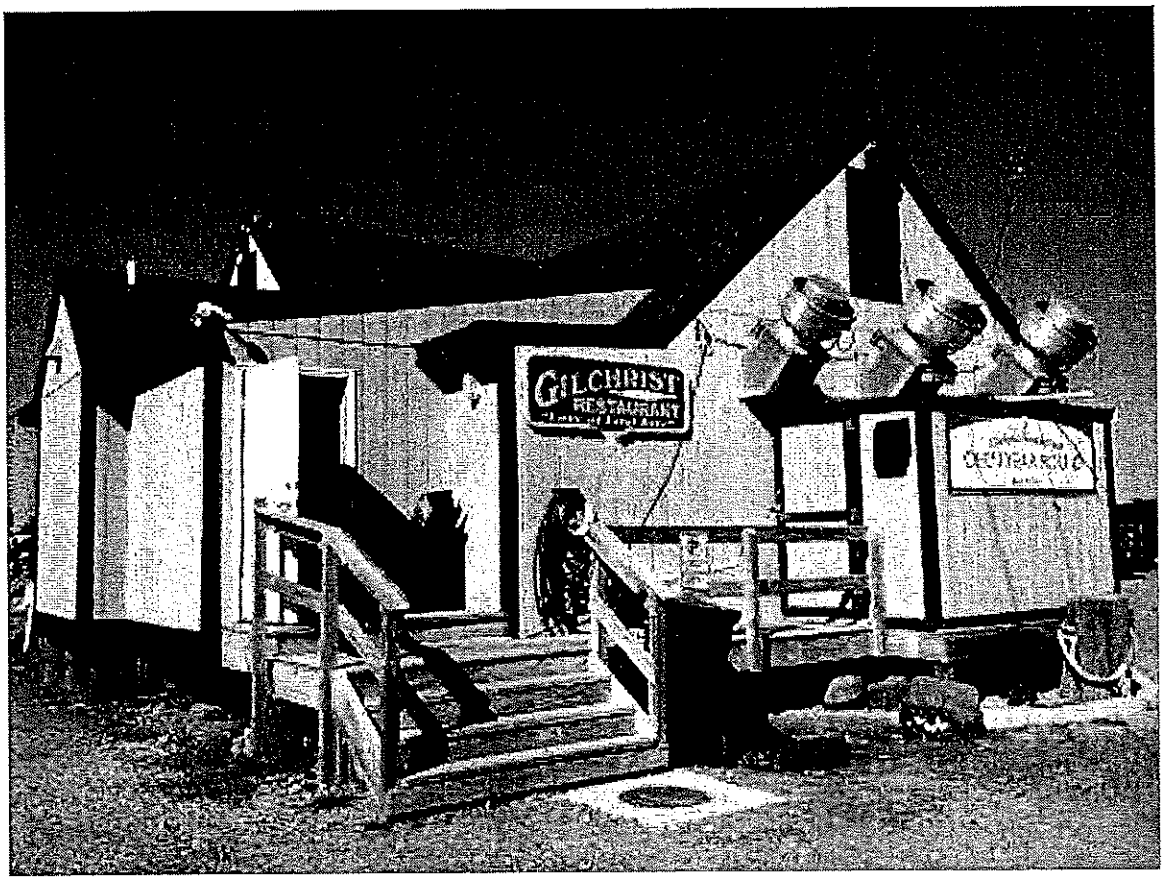
SCHEDULE A to LEASE

Premises

1. INTENT & GENERAL INFORMATION:

1.1.1 Intent

The City of Atlantic City is seeking potential operators for a restaurant known as "Building #8" located at 800 N. New Hampshire Avenue, Gardner's Basin, Atlantic City.



1.1.2 Property Area

Gardner's Basin is a waterfront park encompassing approximately 8 acres, inclusive of free parking and four hour complimentary dockage for park patrons, located at 800 N. New Hampshire Ave, Atlantic City, NJ. Gardner's Basin is the home of the Atlantic City Aquarium, a forty plus slip recreational marina, and an 8 slip commercial Marina. Current major tenants include Back Bay Ale House, Gilchrist Restaurant and seasonal food outlets.

Building #8 is a 13,000sqft one (1) story restaurant with indoor and outdoor soft enclosed decks for food service. The facility does not conform to the American's With Disabilities Act but is "grand fathered" as a historic structure.

SCHEDULE B TO LEASE

Resolution R-170 of 2022

Resolution of the City of Atlantic City

No. 170

Approved as to Form and Legality on Basis of Facts Set Forth

Assistant City Solicitor /s/ Karl Timbers

Factual contents certified to by

Chief Financial Officer/s/ Adetoro Aboderin

Prepared by City Solicitor's Office

Council Members SHABAZZ, RANDOLPH, DUNSTON & WEEKES present the following Resolution:

RESOLUTION OF APPROVAL FOR A COMMERCIAL LEASE FOR BUILDING #10 AT THE HISTORIC GARDNER'S BASIN BY GILCHRIST ENTERPRISES, INC.

WHEREAS, the City of Atlantic City is the owner of Lot 6 of Block 103, also known as Gardner's Basin; and

WHEREAS, said land is identified on the City's Recreation and Open Space Inventory as open space and therefore subject to the Green Acres restrictions found at N.J.A.C. 7:36-1 et. seq. and Land & Water Conservation Foundation (LCWF) restrictions found at 16 U.S.C. 4601-4 et seq; and

WHEREAS, the City desires to provide amenities at Gardner's Basin to attract public use and enhance opportunities for outdoor recreation at the site; and

WHEREAS, the **CITY OF ATLANTIC CITY** now wishes to enter into and has advertised for and received Proposals for the lease of buildings at the Gardner's Basin under a fair and open process, and received a response from **GILCHRIST ENTERPRISES, INC.** having an address of 804 North Rhode Island Avenue, Atlantic City, New Jersey, for **BUILDING #10**; and

WHEREAS, the City of Atlantic City now wishes to enter into a Commercial Lease Agreement with **GILCHRIST ENTERPRISES, INC. to LEASE BUILDING #10** to operate a part time restaurant; and

WHEREAS, the term of the lease agreement is for three (3) years commencing April 1, 2022 and expiring March 31, 2025 with a total rental payment of $60,100.00 for Year 1; $61,302.00 for Year 2 and $62,529.00 for Year 3; with an option to renew for two one (1) year periods with option Year 4 annual rental payment of $63,780.00; and option Year 5 annual rental payment of $65,056.00.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Atlantic City that the City of Atlantic City is authorized to negotiate and execute a Commercial Lease between the City of Atlantic City and **GILCHRIST ENTERPRISES, INC.** for a THREE (3) Year term with an option to renew for two one (1) year periods to lease BUILDING #10 along the waterfront at Gardner's Basin, which lease to be approved as to form and execution by the City Solicitor; and

BE IT FURTHER RESOLVED that the successful bidder shall take control of the property in "As Is" condition. The City makes no warranties or representations regarding ANY condition including, without limitation, environmental, mechanical, structural or cosmetic conditions of Gardner's Basin or any structure or facility located thereon.

kc October 16, 2023 11:51 AM

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DUNSTON	X						RANDOLPH	X					
KURTZ	X						SHABAZZ	X				X	
MARSHALL	X						WEEKES	X					
MORSHED	X					X	ZIA	X					
							TIBBITT, PRESIDENT	X					

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

This is a Certified True copy of the Original Resolution on file in the City Clerk's Office.

DATE OF ADOPTION: MARCH 16, 2022 Paula Geletei

/s/ Paula Geletei, City Clerk