

STATE OF SOUTH CAROLINA) AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH
)
COUNTY OF HORRY) AUTHORIZING AMENDED LEASE
)
TOWN OF SURFSIDE BEACH)

WHEREAS, The Town of Surfside Beach owns property 115 Highway 17N, Lot A, Block H, 11 Ocean Boulevard, Surfside Beach, on which is constructed a Pier, the Surfside Beach Fishing Pier, and includes restaurant space; and

WHEREAS, The Town lease the restaurant space on the Pier to Atlantic Restaurant Group ("Tenant") by lease executed January 10, 2012, **Ex. A**; and

WHEREAS; On October 8, 2016, Hurricane Matthew destroyed portions of the Surfside Beach Pier but Tenant was able to continue to occupy and use the restaurant space because of its location on the remains of the pier; and

WHEREAS, On March 26, 2018, the Town Council of the Town of Surfside Beach voted to move forward with a new pier project to replace the partially destroyed pier, including the restaurant space, and on September funded in part by a FEMA disaster grant and on September 8, 2020, awarded the bid for construction; and

WHEREAS, the Demised Premises leased to the Tenant will be necessarily be re-built during the construction process to different specifications than as described in the 2012 Lease, and a new building will replace the Demised Premises on the same parcel, utilizing design plans largely conforming to plans as shown in **Ex. B** ("New Demised Premises"); and

WHEREAS, The Administrator has informed the Town Council in writing that Tenant is the current Lessee of the pier restaurant space in good standing, timely paying rents under its Lease from the Town, and is a good steward of Town property holding a valid lease with certain optional renewal terms under its current lease, and the Town; and

WHEREAS, On January 28, 2020, Town Council appointed Councilmembers Pellegrino, Drake, and Mayor Hellyer to approach the Tenant with a new amended and restated lease agreement; and

WHEREAS, Pursuant to Sec. 2-210(b) of the Town Of Surfside Beach Code of Ordinances, the Town Council determines it is to the advantage of the Town to amend its lease with Tenant on the basis of the previously-awarded lease, in the best interests of the Town; and

WHEREAS, Sections 2-56(a)(4) of the Code of Ordinances of the Town of Surfside Beach requires Town Council act by ordinance to grant rights in public property after

public hearing, and Section 2-56(a)(7) requires Town Council act by ordinance to sell or authorize the lease of any lands of the municipality; and

WHEREAS, The Town Council has considered the opinion of a licensed appraiser as to the fair market value of the amended demised premises and the public benefit of amending the Town's Lease with Tenant; and

WHEREAS, The Town Council for the Town of Surfside Beach held a Public Hearing October 13, 2020; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Surfside Beach, South Carolina, that the Interim Town Administrator be authorized to execute an Amended Lease with Atlantic Restaurant Group for the restaurant space on the new Surfside Beach Pier.

REPEAL AND EFFECTIVE DATE. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed. This ordinance shall take effect immediately upon second reading by the Mayor and Town Council of the Town of Surfside Beach.

SEVERABILITY. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this article, which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

BE IT ORDERED AND ORDAINED by the Mayor and Town Council of the Town of Surfside Beach, South Carolina, in assembly and by the authority thereof, this _____ day of _____, 2020.

Bob Hellyer, Mayor

Debbie Scoles, Mayor Pro Tempore

Bruce Dietrich, Town Council

David Pellegrino, Town Council

Paul Holder, Town Council

Cindy Keating, Town Council

Michael Drake, Town Council

Attest:

Sheri Medina, Town Clerk