

**COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF MADISON, WISCONSIN**

Resolution No. 4567

Authorizing the execution of an amendment to the Leases with Lane’s Bakery & Coffee, Inc. at The Village on Park.

Presented August 10, 2023  
Referred \_\_\_\_\_  
Reported Back \_\_\_\_\_  
Adopted \_\_\_\_\_  
Placed on File \_\_\_\_\_  
Moved By \_\_\_\_\_  
Seconded By \_\_\_\_\_  
Yeas \_\_\_\_\_ Nays \_\_\_\_\_ Absent \_\_\_\_\_  
Rules Suspended \_\_\_\_\_  
Legistar File Number 79230

WHEREAS, the Community Development Authority of the City of Madison (“CDA”) is the owner of The Village on Park, located at 2300 South Park Street (the “Property”) ; and

WHEREAS, the Property is improved with a commercial building known as The Village on Park (the “Building”); and

WHEREAS, the CDA and Lanes Bakery. Inc. (the “Tenant”) are parties to a lease dated March 8, 2013 and recorded March 12, 2013 with the Dane County Register of Deeds as Document No. 4968944, that was amended with the First Amendment to Lease dated May 14, 2014, and recorded on May 15, 2014, with the Dane County Register of Deeds as Document No. 507000 (collectively the “Bakery Lease”); and

WHEREAS, the CDA and Lane’s Bakery & Coffee, Inc. (the “Lessee”) are parties to a storage lease dated October 9, 2015 and recorded October 26, 2015 with the Dane County Register of Deeds as Document No. 5193400, with an affidavit of correction dated January 6, 2023 (collectively the “Storage Lease”); and

WHEREAS, for the purposes of this resolution the Bakery Lease and Storage Lease are collectively defined as (the “Leases”), and for the purposes of this resolution the premises defined in the Leases are collectively defined as the “Total Lanes’ Premises”; and

WHEREAS, for the purposes of this resolution the Tenant and Lessee shall refer to “Lanes”; and

WHEREAS, Lanes is in the process of selling its business operations, and just informed City staff that they are looking to hire a new broker in this regard; and

WHEREAS, the Leases expire on December 31, 2023 (“Leases Expiration Date”), and Lanes would like to extend the Leases Expiration Date by an additional three (3) months (the “Extended Term”) until March 31, 2024 (the “Extended Term Expiration Date”) until it locates a suitable buyer for the business and closes on the sale. A new lease with a suitable buyer of the business would need to be approved by the CDA Board; and

WHEREAS, Lanes requested an option to extend the Extended Term (the “Extension Option”) on a month to month basis, which cannot exceed four (4) months in total or beyond July 31, 2024 (the “Option Term”). If the Extension Option is exercised, then Lanes can terminate the Leases thereafter by providing the CDA with a written thirty (30) day notice. If the Extension Option is exercised by Lanes, the CDA can terminate the Leases thereafter by providing Lanes with a thirty (30) day notice if it locates a new tenant for the Total Lanes’ Premises; and

WHEREAS, Lanes stated that its’ sales have been significantly impacted by the redevelopment of the Property, and is requesting that its monthly base rent be reduced starting in September 2023 through the Extended Term,

and during the month to month period if the Extension Option is exercised to assist Lanes with keeping the business afloat while they sell the business. City staff supports the reduced base rent outlined below in order to keep the bakery at the Property, and minimize any downtime and related improvement costs the CDA would incur if it needs to secure a new tenant for the Total Lanes' Premises during the upcoming redevelopment period; and

WHEREAS, Lanes would continue to pay the utilities for the Total Lanes' Premises and any other costs outlined in the Leases that are not amended by this resolution; and

WHEREAS, the legal entity under the Bakery Lease was administratively dissolved on August 11, 2015 and the CDA would like to amend said lease to reflect the current domestic business name/entity of Lane's Bakery & Coffee, Inc.; and

WHEREAS, the CDA and Lessee have come to the following terms that will benefit both parties.

NOW THEREFORE BE IT RESOLVED that the Community Development Authority of the City of Madison (the "CDA") hereby authorizes the execution of an amendment to the Bakery Lease and Storage Lease between the CDA and Lane's Bakery & Coffee, Inc. within the Building at The Village on Park materially, though not exclusively, per the following terms and conditions on a form approved by the City Attorney:

### **BAKERY LEASE AMENDMENTS**

1. Amend the first paragraph to delete Lanes Bakery Inc. as the Tenant and replace it with Lane's Bakery & Coffee, Inc.
2. Section 1.2 Lease Term-amend and restate this entire section to read as follows:

The term of this Lease shall commence on the full execution and delivery of this Lease (the "Commencement Date"), and shall continue for approximately ten (10) years and three (3) months, beginning on the date on which the Premises were delivered to Tenant in "white-box" condition pursuant to Section 1.4(a) below, which was December 6, 2013 (the "Occupancy Date"), and ending on the last day of the one hundred twentieth (123<sup>th</sup>) full calendar month following the Occupancy Date or March 31, 2024 (the "Expiration Date"), unless terminated sooner or extended pursuant to any of the provisions hereof. The period from the date on which Tenant's obligation to pay Base Rent under Section 3.1 below commences through the Expiration Date. January 1, 2014 shall be the first "Lease Year" under this Lease, and each consecutive twelve month period thereafter shall also constitute a "Lease Year" hereunder, except the "10<sup>th</sup> Lease Year" shall be for a fifteen (15) month period beginning on January 1, 2023 and ending on March 31, 2024.

3. Section 1.3 Option to Extend-amend and restate this entire section as to read as follows:

Section 1.3 Extension Option.

(a) Tenant shall have one (1) option (the "Extension Option") to extend the term of this Lease with respect to all (but not less than all) of the Premises on a month to month basis, which cannot exceed four (4) months in total or beyond July 31, 2024 (the "Option Term"), provided that Tenant delivers to Landlord written notice of its election to exercise the Extension Option before March 1, 2024. In addition, Landlord shall have the right to declare Tenant's exercise of the Extension Option null and void if Tenant is in default, beyond any applicable cure period, under this Lease on the date Tenant exercises the Extension Option or at any time thereafter.

If the Extension Option is exercised, then Tenant can terminate the Lease thereafter by providing the Landlord with a written thirty (30) day notice. If the Extension Option is exercised by Tenant, the Landlord can terminate the Lease thereafter by providing Tenant with a thirty (30) day notice if it

locates a new tenant for the Premises or the Tenant abandons the Premises.

- (b) If Tenant exercises the Extension Option, this Lease shall continue in full force and effect during each month of the applicable Option Term pursuant to all of the terms and conditions set forth in this Lease. Notwithstanding the foregoing or anything to the contrary in this Lease, (i) Tenant shall have no further options to renew or extend the Term of the Lease beyond July 31, 2024, and (ii) Tenant shall accept the Premises on the first day of each month during the Option Term for which an Extension Option was exercised in an "as-is" condition, without any representation, credit, allowance or build-out from Landlord with respect to the condition or improvement thereof.
- (c) The Extension Option shall automatically terminate and become null and void upon the earlier to occur of (i) the termination of this Lease; (ii) the termination of Tenant's right to possession of the Premises; (iii) the assignment of this Lease by Tenant, in whole or in part, other than as expressly permitted under Section 12.1 below; (iv) the sublease by Tenant of the Premises, or any portion thereof, other than as expressly permitted under Section 12.1 below; or the failure by Tenant to timely or properly exercise the Extension Option.

- 4. Section 3.1 Base Rent -amend and restate the 10<sup>th</sup> Lease Year figures in the rent table in paragraph (a) to read as follows:

Lease Year	Annual Base Rent	Monthly Base Rent	Annual Base Rental Rate Per RSF
10 <sup>th</sup> Lease Year			
January 1, 2023 to August 31, 2023	n/a	\$7671.00	n/a
September 1, 2023 to December 31, 2023	n/a	\$3000.00	n/a
January 1, 2024 to March 31, 2024	n/a	\$0.00	n/a

- 5. Section 3.1 Base Rent -amend and restate the entire section and table in paragraph (a) pertaining to the Extension Option(s) and replace to read as follows:

If the Extension Option is exercised, the monthly Base Rent for the applicable Option Term shall be as follows:

Lease Year	Annual Base Rent	Monthly Base Rent	Annual Base Rental RatePerRSF
Option Term:			
April 2024	n/a	\$0.00	n/a
May 2024	n/a	\$0.00	n/a
June 2024	n/a	\$0.00	n/a
July 2024	n/a	\$0.00	n/a

6. Section 11.1 (f) is amended and restated to read as follows:

The abandonment by Tenant of the Premises.

7. Section 13.14 is amended and restated to read as follows:

Tenant shall surrender the Premises upon the expiration or termination of the term of this Lease. Any holdover not consented to by Landlord in writing shall not result in a new tenancy or interest and, in such case, Landlord may treat Tenant as a trespasser.

**STORAGE LEASE AMENDMENTS**

1. Amend and restate the entire sixth paragraph in the WITNESSETH section to read as follows:

WHEREAS, the Bakery Lease is for a term of approximately ten (10) years, commencing on December 6, 2013 and scheduled to expire on March 31, 2024, with the option to extend the lease term (the “Extension Option”) on a month to month basis, which cannot exceed four (4) months in total or beyond July 31, 2024 (the “Option Term”); and

2. Section 2 Term-amend and restate this entire section to read as follows:

This Lease shall commence on the Effective Date and shall continue until the expiration or termination of the Bakery Lease according to the provisions therein, unless this Lease is terminated earlier pursuant to the provisions in Paragraph 14 below. The first Lease Year shall begin on the Effective Date, and each succeeding Lease Year shall begin on the anniversary of the full calendar month following the Effective Date. The term “Lease Year” shall mean a full one (1) year period, except for the eighth (8<sup>th</sup>) Lease Year, which shall expire on March 31, 2024.

3. Section 3 Rent-amend and restate the rent schedule in 3.b for the eighth (8) Lease Year to read as follows:

Lease Year	Square Feet	Rate	Annual Rent	Monthly Payment
8	600	n/a	n/a	
11.1. 2022 to 8.31.2023				\$172.30
9.1.2023 to 3.31.2024				\$0.00

Option Term if exercised	Square Feet	Rate	Annual Rent	Monthly Payment
	600	n/a	n/a	
April 2024				\$0.00
May 2024				\$0.00
June 2024				\$0.00
July 2024				\$0.00

Section 4 Hold Over. -amend and restate this entire section to read as follows

Lessee shall surrender the Leased Premises upon the expiration or termination of the term of this Lease. Any holdover not consented to by CDA in writing shall not result in a new tenancy or interest and, in such case, CDA may treat the Lessee as a trespasser

BE IT RESOLVED that the Chair and Deputy Director of the CDA are hereby authorized to execute, deliver and record the Amendments to the Bakery Lease and Storage Lease, and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution in an amendment to lease form approved by the City Attorney.