

FERRY SERVICE AND LANDING AGREEMENT

THIS AGREEMENT, dated as of August __, 2022, by and between CITY OF SOUTH AMBOY, a body politic of the State of New Jersey, with an address at 140 North Broadway, South Amboy, New Jersey, 08879 (the “City”), and PORT IMPERIAL FERRY CORP., doing business as NY WATERWAY, a New Jersey corporation, with an address at 4800 Avenue at Port Imperial, Weehawken, New Jersey, 07086 (“PIFC”);

WHEREAS, the City is the owner of land situated at Block 161.02 Lots 90.01 & 25.07 in the City of South Amboy (the “Land”), a description of which is attached hereto as Exhibit A with a map of the described area attached hereto as Exhibit B, including a pier adjacent thereto (the “Pier”) and certain upland areas adjacent to the Pier upon which a waterfront bulkhead, parking facilities, and pedestrian walkways have been or will be constructed providing access to the Pier (the “Adjacent Areas”);

WHEREAS, the City desires to contract for the operation of a passenger ferry service (the “Primary Ferry Service”) between the Landing Site (hereinafter defined) and the Borough of Manhattan in New York City;

WHEREAS, on or about July 7, 2021, the City issued a Request for Proposal (the “RFP”) to various ferry service operators;

WHEREAS, PIFC was selected by the City under the RFP to be the “prime operator” as defined in the RFP, which is incorporated herein by reference;

WHEREAS, the City plans to cause to be constructed on a portion of the Land a ferry terminal (the “Ferry Terminal”) and an automobile parking lot (the “Parking Facility”), schematic drawings for which have been provided to PIFC;

WHEREAS, the City intends to license to PIFC portions of the Pier for use as a landing site (the landing site being hereinafter referred to as the “Landing Site”) and the Ferry Terminal (the Landing Site and Ferry Terminal are hereinafter collectively referred to as the “Ferry Property”), a depiction of which is attached hereto as Exhibit B, entitled “Delineation Plan”;

WHEREAS, the City has determined that the Primary Ferry Service would be an appropriate and beneficial use of the Land and beneficial to the public and therefore wishes to license the Ferry Property to PIFC on the terms and conditions contained herein; and

WHEREAS, PIFC desires to provide the services, the equipment and the improvements, and to perform the other obligations required as the prime operator in accordance with the provisions of the RFP, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the mutual agreements of the parties herein contained, the parties hereby agree as follows:

1. Term of Agreement: Provision of Ferry Service.
 - a. The term of this Agreement shall commence on the date hereof and shall continue in effect until the tenth (10th) anniversary of the Commencement Date (as hereinafter defined) (the “Initial Expiration Date”) or unless extended to a later date beyond the Initial Expiration Date (the “Expiration Date”) or sooner terminated pursuant to the provisions of this Agreement. The Primary Ferry Service shall commence on a date (the “Commencement Date”) to be mutually agreed upon between the City and PIFC. The City and PIFC acknowledge and agree that it is anticipated that the Commencement Date will be between August, 31, 2023 and March 30, 2024. The City and PIFC further acknowledge and agree that the Commencement Date is dependent upon the completion of the above-mentioned improvements to the Pier, the Ferry Terminal and the Parking Facility (the “Improvements”). The City is presently revising final plans and specifications for the Improvements. The City has received bids for the Improvements and awarded an engineering construction contract for the

Improvements in April, 2022, and anticipates that it will give a notice to proceed with the Improvements to the construction contractor (the “Notice to Proceed”) in October, 2022. The construction contract will allow the contractor approximately one year to complete construction of the Improvements, which will result in completion of the Improvements on or about December 31, of 2023. If the City has not given the Notice to Proceed for the making of the Improvements by March 30, 2023, PIFC may cancel this Agreement by written notice to the City (the “Notice of Termination”). In any event, however, the Notice of Termination will not be valid unless received by the City prior to the City’s giving a Notice to Proceed. Once the City has given the Notice to Proceed, PIFC shall no longer have the option to cancel this Agreement under the provisions of this paragraph. The Commencement Date of the Primary Ferry Service shall be no later than 15 months from the date that the Notice to Proceed is given to the construction contractor;

- b. The Primary Ferry Service shall be operated by PIFC between the Landing Site and the docking facilities at (a) PIFC’s Brookfield Place Terminal at Battery Park City in lower Manhattan, and (b) PIFC’s terminal at West 39th Street and the Hudson River in midtown Manhattan (the “PIFC Destinations”) during the hours and with the frequencies as to each weekday during the term of this Agreement as are set forth on Exhibit C attached hereto and made a part hereof. Subject to the provisions contained herein, PIFC may make reasonable changes to the schedule for the Primary Ferry Service, provided that PIFC shall give the City at least thirty (30) days’ advance written notice of any changes to such schedule. Notwithstanding the foregoing, in no event shall the Primary Ferry Service be less than a Full Time Ferry Service. For purposes of this Agreement, “Full Time Ferry Service” is defined to mean at least 200 days per calendar year in accordance with a schedule approved by the City which provides for at least three (3) trips in each Peak Period (hereinafter defined) to and from each PIFC Destination. For purposes of this Agreement, “Peak Period” is defined to mean (i) 5:30 A.M. to 11:00 A.M. and (ii) 4:00 P.M. to 8:00 P.M. Provided PIFC is not then in breach or default in the performance or observance of any of its

obligations to be performed or observed under the Agreement regarding which PIFC has been notified by the City, PIFC shall have the right to renew this Agreement for one (1) additional ten (10) year term; provided, however, that PIFC shall notify the City in writing of its election to renew not less than nine (9) months nor more than twelve (12) months prior to the expiration of the preceding term (TIME BEING OF THE ESSENCE as to such notification period); renewal shall be on the same terms and conditions as this Agreement. PIFC may, from time to time, propose to utilize a different location for any of the PIFC Destinations listed above, subject to the City's prior written consent (which shall not be unreasonably withheld).

2. Nature of Service; Fares. PIFC shall operate the Primary Ferry Service for:

- (a) the transporting of passengers between the Landing Site and the PIFC Destinations and
- (b) the transporting of Cargo (hereinafter defined) between the Landing Site and the PIFC Destinations and for no other purpose. For purposes of this Agreement, "Cargo" is defined to mean nonflammable, non-corrosive, non-hazardous materials which are typical of express package movement as is generally acceptable by the freight industry generally and of the type and consistency that would be transported by United Parcel Service, the United States Postal Service or Federal Express (provided, however, that the definition may be expanded with the prior written consent of the City) but shall not include (i) Hazardous Substances (as hereinafter defined), (ii) flammable substances under pressure (except with the prior written consent of the City, which consent may be granted or withheld in the City's sole discretion), or (iii) any substance(s) otherwise prohibited by federal or state law from being transported in the manner contemplated by this Agreement. All fares to be charged to passengers by PIFC in respect of the Primary Ferry Service's Peak Period shall be commercially reasonable and relative to fares charged on competing or complementary services, and will include the Base Rent (as hereinafter defined), and all of PIFC's costs, including for the provision of trans-Hudson transfers and ground transportation services; provided PIFC shall give the City at least thirty days' advance written notice of any changes in fares.

3. Assignment and Subletting. PIFC shall not, (a) assign this Agreement without the prior written consent of the City which consent shall not be unreasonably withheld or delayed, or (b) except as otherwise expressly permitted by this Agreement, grant any license, concession, or other right of occupancy of any portion of the Ferry Property, or (c) permit the use of the Ferry Property by any party other than PIFC (each, a "Transfer"). Any attempted Transfer by PIFC shall be null and void ab initio and shall constitute an Event of Default hereunder by PIFC.

4. Notices. All notices or other communication to be given by the City to PIFC shall be served by: (i) personal delivery by an established delivery service upon PIFC, (ii) reputable overnight courier or (iii) certified or registered mail addressed as follows: Port Imperial Ferry Corp., 4800 Avenue at Port Imperial, Weehawken, New Jersey 07086, Attn: Armand Pohan with a copy to: Mark D. Lerner, Esq., Windels Marx Lane & Mittendorf, LLP, One Giralda Farms, First Floor, Madison, New Jersey 07940. All notices or other communication to be given by PIFC to the City shall be served by: (x) personal delivery by an established delivery service upon the City, (y) reputable overnight courier or (z) certified or registered mail addressed as follows: City of South Amboy, 140 N. Broadway, South Amboy, New Jersey 08879, Attn: Business Administrator, with a copy to City of South Amboy, 140 N. Broadway, South Amboy, New Jersey 08879, Attn: City Clerk.

5. Grant of License and Landing Rights.

a. Subject to, and in accordance with, the terms and conditions of this Agreement, the City hereby grants to PIFC an exclusive license and permission to utilize the Ferry Property as herein provided and PIFC agrees to operate the Primary Ferry Service to and from the Landing Site and to land vessels at the Landing Site solely for the purposes described in Section 2 of this Agreement. The rights granted to PIFC hereunder shall be exclusive as to the Primary Ferry Service. The City reserves the right, and the right to allow others the right, to use the Landing Site for any other purpose including, without limitation, the provision of ferry services to

destinations other than the PIFC Destinations (the “Secondary Services”). Without limiting the foregoing, the City may inspect, or cause to be inspected, the Ferry Property at any time without prior notice of any kind.

b. The City and PIFC acknowledge and agree that the City, with the prior written approval of PIFC (which approval shall not be unreasonably withheld), may select one or more ferry operators (each, a “Special Operator”) to provide charter, weekend, sightseeing or banquet type ferry service.

c. In the event of the City’s selection of one or more Special Operators or Secondary Services Operators, PIFC shall be entitled to collect a fee from any Special Operators or Secondary Services Operators for the provision of services at the Ferry Property.

d. In the event the City proposes to allow others the right to provide ferry services to destinations other than PIFC Destinations or to select a ferry operator to provide charter, weekend, sightseeing or banquet type ferry service, PIFC shall have a right of first refusal to provide such services. The City shall provide to PIFC written notice of the terms and conditions of such proposed services and PIFC shall have ninety (90) days to provide to the City written notice of the exercise of the right of first refusal to provide such services.

e. Subject to the restrictions in Paragraph 16 below regarding overnight berthing, Secondary Services and Special Operator services shall not significantly interfere with the operation of the Primary Ferry Service.

6. Rent Payable to the City.

a. Base Rent. In partial consideration for the rights granted by the City to PIFC pursuant to this Agreement, PIFC shall pay to the City, without setoff, deduction or counterclaim, an amount (the “Base Rent”) equal to the sum of (i) \$0.30 per passenger, whether a full fare, reduced fare or no fare is paid, and (ii) \$0.02 per pound of Cargo whether carried by PIFC or by a Secondary or Special Operator and whether or not a fee, fare or other

compensation is charged, such Base Rent to be paid monthly on or before the tenth day of each month, beginning with the month immediately following the month in which the Commencement Date occurs. The Base Rent shall be subject to adjustment in accordance with Section 35 herein. At minimum the annual base rent shall be no less than fifty thousand dollars (\$50,000).

b. Additional Rent. In addition to the Base Rent, PIFC shall pay to the City as additional rent (the "Additional Rent") (the Base Rent and Additional Rent are hereinafter collectively referred to as the "Rent"), in each case without setoff, counterclaim or deduction, an amount equal to ten percent (10%) of the gross revenues of all concessions, whether operated by PIFC or a third party, as described in Section 36 of this Agreement, such Additional Rent to be paid on or before the tenth day of each month, beginning with the month immediately following the month in which the Commencement Date occurs. The rate of Additional Rent shall remain fixed during the term of this Agreement and any extensions hereof.

7. Ferry Vessels. PIFC will bear all capital, operating and other costs associated with the design, construction, acquisition, operation, repair, and maintenance of its vessels and shall be solely responsible for meeting all certification, inspection, maintenance and safety requirements applicable to its vessels. Without limiting the generality of the foregoing, each vessel selected by PIFC for use in providing the Primary Ferry Service (collectively, the "Vessels") shall be (a) approved by the U.S. Coast Guard and manned and operated in accordance with the U.S. Coast Guard Certificate of Inspection, and (b) substantially in conformance with the performance characteristics contained in PIFC's response to the RFP. PIFC will submit specifications for each Vessel to be used by PIFC in providing the Primary Ferry Service during the term of this Agreement, without limiting the foregoing, PIFC shall at all times have available a minimum of two (2) ferry vessels which meet the criteria contained herein to undertake the Primary Ferry Service.

8. Ridership Data. PIFC will furnish to the City reports containing daily aggregate passenger totals (both paid and unpaid) and Cargo totals by trip, in form and substance reasonably required by the City, on a monthly basis, no later than the 25th day of the following month. The City shall have the right to audit such reports in accordance with Section 31 herein.

9. Requirements of Law. This Agreement and the performance of PIFC's duties hereunder shall be subject to any and all laws, regulations, orders, rules and requirements of the New Jersey Department of Transportation and the laws, regulations orders, rules and requirements of any and all agencies, administrations, departments, bureaus and boards of federal, state, City and local governmental authorities. The Primary Ferry Service to be operated by PIFC hereunder shall be operated in compliance with all applicable legal requirements and PIFC shall comply with and shall cause its employees, agents, servants and invitees to comply with all laws, statutes, municipal ordinances, rules and regulations of government authorities applicable to the conduct of its business or the performance of its duties and obligations hereunder. PIFC shall be responsible for obtaining all operating licenses and permits and other governmental and quasi-governmental approvals, if any, required for the Primary Ferry Service to be provided hereunder.

Without limiting the foregoing, PIFC shall comply with all federal, state and local environmental laws, rules and regulations, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C.9601-9657, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901-6987, the State of New Jersey Industrial Site Recovery Act ("ISRA"), NJSA 13:1K-6 to 18 and the Spill Compensation and Control Act, NJSA 58:10-23.11 et. seq., all of which, together with all successor legislation, are collectively referred to hereinafter as the "Environmental Laws". PIFC agrees from and after the date hereof, to comply with all Environmental Laws and that it shall not cause or permit, nor shall any agent, servant, employee or contractor of PIFC cause or permit, any acts or omissions in violation of an Environmental Laws, including, without limitation, storing, handling, transportation, use,

disposal or discharge of any Hazardous Substance (as such term is defined in the Environmental Laws) in, on, about or under the Ferry Property in violation of the Environmental Laws. PIFC hereby agrees to execute such documents and provide such information as the City reasonably requires to assure compliance with the Environmental Laws (the requirements contained in subsections (a) and (b) of this Section 9 shall hereinafter be collectively referred to as the "Legal Requirements"), it being understood that environmental compliance relating to conditions which pre-exist the date of this Agreement will be excluded from the definition of "Legal Requirements".

10. Insurance

a. PIFC shall obtain and maintain protection and indemnity insurance coverage and comprehensive general liability coverage with combined single limit for bodily injury, personal injury and property damage in the amount of not less than \$10,000,000 applicable to each coverage.

b. All such insurance policies shall name City as an additional insured thereunder against any claims, suits, demand, or judgments by reason of personal injuries including death and for any claims of damage or property occurring on the Ferry Property, including, but not limited the lands or water.

c. All insurance policies and insurance required to be furnished hereunder shall be issued by a responsible company or companies authorized to do business in the State of New Jersey and such policies shall not be canceled or subject to change except upon not less than 30 days' written notice to the City.

d. PIFC shall furnish to the City a certificate from each insurer in duplicate evidencing policies for the above insurance, identifying this Agreement and containing a separate express statement of compliance with each of the above requirements following execution of this Agreement and before the Primary Ferry Service is commenced from the Landing Site. PIFC will deliver to the City renewal policies not less than thirty (30) days prior to the expiration of each required policy.

e. PIFC furnish evidence to the City that it shall have obtained all necessary state and federal Workers' Compensation insurance in statutory amounts, as well as any other workers' insurance coverages required by law or in admiralty, including coverage under 48 USC §883, et seq., "the Jones Act".

f. All of the insurance required by the provisions of this Section 10 shall remain in effect throughout the term of this Agreement.

g. The amounts and types of insurance required to be maintained by PIFC shall be subject to periodic adjustments by the City in its reasonable discretion.

11. Fix up of Ferry Terminal: Maintenance.

a. The City has prepared plans for the Ferry Property. PIFC shall have the right to inspect and approve the plans prior to the City's solicitation of bids for construction. PIFC will accept the Ferry Property in its "as is" "where is" condition so long as the Ferry Property is constructed substantially in accordance with the plans and in accordance with applicable building codes. The City will supply to PIFC a set of as-built plans prior to the Commencement Date. PIFC agrees that it will provide all life safety equipment at the Landing Site which is required by law or for the operation of Primary Ferry Service. Prior to the commencement date of the Primary Ferry Service, the City agrees to construct and PIFC shall maintain, at its sole expense, one or more passenger gangways at the bulkhead so as to enable the Primary Ferry Service to be operated with the level of frequency required under this Agreement. PIFC will be responsible for maintaining and cleaning the as-built facilities referred to in this Section 11 so that the facilities are in compliance with applicable safety and sanitation codes and standards.

b. Prior to the commencement as the Primary Ferry Service, PIFC shall, at its sole cost and expense, and with the prior approval City, furnish and install, and thereafter operate and maintain, the items listed on Exhibit

D to this Agreement and more particularly described in PIFC's proposal submitted in response to the RFP (the "Proposal") including, without limitation, furniture and fixtures, into the Ferry Terminal. Fixtures shall be paid for in full free from any security interests or liens, and upon such installation, the fixtures shall become the property of the City.

c. In addition to the items contained elsewhere in this Section 11, PIFC shall also be responsible for, and shall pay for, the following items with respect to the Ferry Property: (i) all maintenance and repairs (other than Capital Improvements), (ii) snow removal, (iii) security, (iv) all water, sewer, electricity, gas, telephone and data support services and other utility and similar charges (collectively, the "Cooperating Expenses"), (v) HVAC maintenance, (vi) maintenance of electrical, mechanical and plumbing systems, (vii) building re-lamping, (viii) security observations, (ix) security responses, (x) maintenance of building shrubs and plants, (xi) pier maintenance, (xii) janitorial services, including trash removal from Ferry Property and (xiii) maintenance and repairs of signs installed by PIFC. The City shall be responsible for, and shall pay for, the following items with respect to the Ferry Property: (i) all Capital Improvements, (ii) property and casualty insurance and (iii) maintenance and repairs of signs installed by the City. For purposes of this Agreement, a "Capital Improvement" is defined to mean any acquisition, construction or replacement of property that is capitalized for federal income tax purposes under generally accepted accounting principles and (a) that either (x) extends the depreciable life of some portion of the Ferry Property or (y) has a useful life of more than 10 years, and (b) which costs at least \$10,000 per improvement. The City will assign to PIFC any available warranties covering the items for which PIFC is responsible. PIFC's obligation to expend funds for the maintenance of the Ferry Property during the term of this Agreement and any renewals hereof shall be subject to the following annual caps: \$2,500 for the first five (5) years, \$5,000 for the second five (5) years, \$7,500 for the third five (5) years, and \$10,000 for the final five (5) years. These caps shall be exclusive

of costs resulting from casualty losses caused by PIFC or its Vessels recoverable under available insurance policies. At the beginning of each calendar year, but not later than January 31, the City will reimburse PIFC for all expenditures in excess of the caps state above during the prior year. PIFC will submit to the City for review a statement of all expenditures in excess of the caps as soon as such excess expenditures or expenses become known to PIFC.

d. It is agreed and acknowledged that the Ferry Property provides for public access to the surrounding areas and activities, and that, therefore, parking at the Parking Facility will be on a “first-come, first-accommodated” basis subject to provisions of Section 45. No fee for parking shall be charged for without written agreement and consent of the parties, which shall be subject to negotiation at any time during this agreement. The City reserves the right to charge a parking fee for events and circumstances not related to PIFC’s ferry services, however, any parking for such events and circumstances shall not encroach upon parking spaces necessary to accommodate ferry patrons.

e. Without in anyway limiting the obligations of PIFC contained in this Section 11, PIFC may hire a property manager to carry out the day-to-day operations of the Ferry Terminal, provided, however, that identity of the property manager and its employees, and the terms and conditions of any agreement with such property manager, including, without limitation, the compensation structure included therein, shall be subject to the prior written approval of the City, which consent shall not be unreasonably withheld.

f. The City will be responsible for maintenance of, and snow removal at, the Parking Facility. The City may provide such security for the Parking Facility, if any, as the City, in its sole discretion, deems appropriate. The City’s responsibilities shall include maintenance of the pavement, striping, lighting systems (including re-lamping) landscaping, and storm drainage system, as well as maintenance and repair of any such modifications.

g. PIFC shall be responsible for maintenance of the first floor (see Exhibit E-NY Waterway's First Floor Area of Responsibility). It is the intention of the City to enter into a contract with a restaurant or other food service entity to operate a food service facility on the second floor of the proposed ferry terminal building. Maintenance of the second floor of the ferry terminal building shall be the sole responsibility of the City which shall be explicitly set forth in any contract entered into by the City with a third party for food service operations. The City's responsibility for the maintenance of the second floor of the ferry terminal building shall commence upon completion of the terminal even in the absence of any contract between the City and a food service provider. All other maintenance responsibilities shall remain as set forth elsewhere in this agreement.

12. Various Covenants: Surrender of Ferry Property. PIFC covenants and agrees to the following provisions:

a. PIFC, as its sole expense and in its own discretion, but using sound business judgment, shall operate and shall conduct the Primary Ferry Service in good faith with a view to providing excellent service and reasonably maximizing revenues, except when prevented from doing so by Force Majeure (as hereinafter defined). In connection therewith PIFC, at its sole expense, except as otherwise provided herein:

- i. shall hire, supervise and pay all persons necessary to be employed for the efficient operation of the Primary Ferry Service;
- ii. shall keep all existing equipment at the Ferry Property in good condition and working order, and surrender the same at the expiration of this Agreement in good working order subject to normal wear and tear;
- iii. shall cause to be prepared and filed with respect to PIFC's employees working at the Ferry Property any and all returns and/or proofs required by any federal, state or municipal authority, including,

- without limitation, those returns and/or reports relating to income and/or social security taxes and unemployment insurance, together with any and all correct payments due in connection therewith;
- iv. shall not change safety or security systems, signage or any other portion of the Ferry Property, without the prior written consent of the City;
 - v. shall operate the Ferry Property and the Primary Ferry Service in a first-class, professional manner using equipment that is reasonably satisfactory to the City so as to allow for verification of daily transactions in connection with the Primary Ferry Service;
 - vi. shall maintain the Ferry Property in good condition and shall at all times keep the Ferry Property in a clean, sightly and healthy condition and in compliance with all Legal Requirements and, in furtherance thereof, shall purchase any and all supplies and equipment necessary for the maintenance of the Ferry Property;
 - vii. shall not use or permit any agent, employee or contractor, or knowingly permit any other person to use the Ferry Property for any purpose whatsoever in violation of any laws, ordinances, rules or regulations of any governmental authority having or claiming jurisdiction over the Ferry Property, shall not use or permit any agent, employee or contractor, or knowingly permit any other person, to use the Ferry Property for any illegal or immoral purpose, and shall not allow the use, sale, possession or dispensing within the Ferry Property of any controlled or illegal drugs or substances;
 - viii. shall not permit any noise or odor to emanate from the Ferry Property that is objectionable to the public, except such noises and odors as are customary in the operation of a business such as the Primary Ferry Service, and shall not create, maintain or permit a nuisance thereon or therein;
 - ix. shall consider, and with all reasonable dispatch attend to, the reasonable complaint and/or comments of the City and users of the

Ferry Property; shall account for each revenue category separately, so as to allow the City to determine the source of all revenue generated by the Primary Ferry Service;

- x. shall cause to be collected and remitted to the appropriate governmental agencies any or all sales or use taxes, service taxes, or other similar taxes (“Taxes”) imposed or assessed in connection with the operation of the Primary Ferry Service;
 - xi. shall post such signs in or about the Ferry Property as are designated by the City and reasonably necessary or desirable to fully notify users of the Ferry Property that the Ferry Property is operated solely by PIFC as a licensee of the City, that no agency relationship exists between the City and PIFC; and that the City is not responsible for the operation of the Ferry Property;
 - xii. shall maintain at all times its Vessels;
 - xiii. shall assure that all PIFC Destinations are suitable for ferry service; and
 - xiv. may provide excursions and other charters more particularly described in the Proposal or hereafter requested, subject to the prior written approval of the City, which approval shall not be unreasonably withheld.
- b. Unless this Agreement is renewed, PIFC will, no later than the Expiration Date (or such earlier date in the event of a termination of this Agreement prior to the Expiration Date), quit and surrender to the City the Ferry Property and all Fixtures. Any personal property which shall remain in the Ferry Property after the expiration or termination of this Agreement shall be deemed to have been abandoned, and either may be retained by the City as its property or may be disposed of, at PIFC’s expense, in such manner as the City may see fit; provided, however, that notwithstanding the foregoing, PIFC will, upon written request by the City made not later than thirty (30) days before the Expiration Date hereof, promptly remove from the Ferry Property any such personal property at PIFC’s sole cost and expense. In the

event of a termination of this Agreement, PIFC shall leave the Ferry Property “broom clean” and in good order, condition or repair, except for ordinary wear and tear. No act or thing done or omission by the City or its agents shall be deemed an acceptance of a surrender of the Ferry Property. The parties agree to execute an agreement evidencing the condition of the Ferry Property upon such surrender.

13. Dredging.

The City will be responsible for dredging of the Ferry Property and the waterways immediately adjacent to the Ferry Property, subject to the City’s ability to obtain any necessary permits and further provided that the need for dredging shall be determined by the City from time to time in its discretion. In the event PIFC reasonably determines that dredging is required for the safe and proper provision of Ferry Service and the City shall either (x) be unable to obtain the necessary permits or (y) determine, in its discretion, not to provide dredging, PIFC shall have the right, upon not less than thirty (30) days written notice to the City (except for such shorter period as may be dictated by emergent conditions), to either (x) suspend the provision of the Primary Ferry Service pursuant to this Agreement until such time as the City shall have obtained the necessary permits and completed dredging or (y) terminate this Agreement and, upon such termination, the City and PIFC shall have no further rights and obligations hereunder except as expressly set forth herein.

14. Risk Management Procedures Manual.

PIFC will provide the City with copies of the Risk Management Procedures Manual for the City’s approval prior to the commencement of the Primary Ferry Service hereunder.

15. Sunken or Disabled Craft; Emergency Response Plan.

In the event a PIFC vessel is disabled or is in danger of sinking, or shall in fact sink while located at the Landing Site, the approaches thereto, or while coming into or going from the Landing Site, or while turning, whether such damage be partial or total, regardless of the cause thereof, PIFC will at its own expense remove the disabled vessel

and leave the Landing Site and approaches thereto by land and by water free of any wreckage. If PIFC fails to remove any such obstruction promptly on demand, the City may remove it or cause it to be removed at the risk and expense of PIFC.

16. No Waste Material: Refueling: No Excessive Noise: Overnight Berthing.

No discharge of any kind, including, but not limited to, garbage, oil, sludge, refuse matter, sewage or waste material of any kind shall be thrown, deposited or permitted to fall into the water or upon the Ferry Property. The Ferry Property shall not be used as a storage place for any ramps, gear or equipment without the prior written consent of the City. Toilets on all vessels used in the Primary Ferry Service shall be U.S. Coast Guard standard. There shall be no repairs (other than emergency repairs) or refueling of vessels operated by PIFC while at the Landing Site, other than mobile refueling in a manner acceptable to the New Jersey Department of Environmental Protection ("NJDEP"), the Township of South Amboy Fire Department and other governmental authorities having jurisdiction, and approved by the City. No vessel operated hereunder shall produce excessive levels of noise while at or in proximity to the Landing Site. All fueling for vessels operated by PIFC and garbage disposal (including liquid and solid waste) will be accomplished in a safe and environmentally sound manner, and in accordance with all Legal Requirements. PIFC may berth those vessels used in providing the Primary Ferry Service overnight at the Ferry Property.

17. Cooperation.

PIFC shall cooperate with the City and with other persons utilizing the Landing Site and other portions of the Ferry Property with the City's permission.

18. Sufficient Personnel.

PIFC at all times during the operation of the Primary Ferry Service shall have sufficient personnel to immediately and efficiently secure each vessel to the Landing Site, to control crowds, and to provide for safe embarkation and debarkation. All personnel required for the operation of the Primary Ferry Service shall be at PIFC's sole cost and expense. Each party will designate a contact person concerning the daily operation of the

Ferry Property. The identity of the contact person may be changed by a party upon written notice to the other party.

9. Indemnification.

PIFC shall forever indemnify and save harmless the City, its officers, employees and other representatives and agents, from and against any and all liabilities, claims, demands, causes of action, suits, judgments, penalties, damages and expenses (including attorneys' fees) arising from (1) PIFC's use and occupancy of the Ferry Property, or any work, activity, or thing done, allowed or suffered by PIFC in, on or about the Ferry Property, or (2) any breach or default by PIFC of any of PIFC's obligations under this Agreement, and/or (3) any act or omission of PIFC. This indemnity provision shall survive termination or expiration of this Agreement. If any proceeding is filed for which indemnity is required hereunder, PIFC agrees, upon request therefor, to defend the City in such proceeding at its sole cost utilizing counsel satisfactory to the City.

20. Accidents.

In the event of any accident, spillage, breakage, damage or other condition caused by PIFC or involving a vessel operated by PIFC which presents a hazard to persons or property, PIFC will immediately take any and all measures and precautions necessary to safeguard the public and will comply with all laws and regulations of governmental authorities requiring the giving of notice of such incidents or which are otherwise applicable to such circumstances. PIFC shall give immediate oral notice to the City and PIFC shall notify the City in writing within 24 hours of any accident which occurs at or in proximity to the Ferry Property.

21. Damage to Ferry Property or Approaches to Ferry Property.

PIFC shall be responsible for any damages, it causes to the Ferry Property or approaches thereto, exclusive of ordinary normal wear and tear, and shall notify the City within 24 hours of the occurrence of such damage. PIFC promptly will repair any such damage at the cost and expense of PIFC.

22. No Discrimination

During the term of this Agreement, PIFC agrees as follows:

- a. PIFC will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. PIFC will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employments upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. PIFC agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;
- b. PIFC will, in all solicitations or advertisements for employees placed by or on behalf of PIFC, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation;
- c. PIFC will send to each labor union or representative of workers with which it has a collective bargaining or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of PIFC's commitments under P.L. 1975, c. 127 and shall post copies of the notice in conspicuous places available to employees and applicants for employment;
- d. PIFC agrees to comply with any regulations promulgated by the Treasurer of the State of New Jersey pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time;
- e. PIFC agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities and labor unions, that it does not discriminate on the basis of age, creed, color,

national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices:

- f. PIFC agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions;
- g. PIFC agrees to review all procedures relating to transfer, upgrading, downgrading and lay off to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and shall assist the City in fostering and promoting its economy and increasing opportunities for gainful employment therein, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions; and
- h. PIFC shall furnish such reports or other documents to the Office of the City Attorney and City Clerk as may be requested by such office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).] and any applicable federal regulations.

23. Workforce Participation Plan.

PIFC agrees to attempt in good faith to employ minority and female workers consistent with the applicable City employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 2975, c. 127, as amended and supplemented from time to time or in accordance with the binding determination of the applicable City employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 27:375.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

24. Personnel.

PIFC shall cause all personnel employed by PIFC with respect to the provision of the Primary Ferry Service to at all times be courteous and of a neat and clean appearance. Subject to any collective bargaining agreements and relevant laws, codes, ordinances and regulations, PIFC shall remove or transfer from the Primary Ferry Service any employee whose conduct or behavior is reasonably determined by the City to be objectionable.

25. No Oral Modification.

This Agreement may not be altered or amended in any manner whatsoever except by a written document signed by the City and PIFC. Any and all obligations and/or liabilities of PIFC under this Agreement shall survive the expiration of the term of this Agreement or other cancellation or termination hereof.

26. Default and Termination.

a. An Event of Default hereunder means the occurrence of any one or more of the following events:

i. PIFC fails, for any reason, to provide (i) the Primary Ferry Service no later than the Primary Ferry Service Commencement Date, or (ii) the Primary Ferry Service no later than another Primary Ferry Service Commencement Date, or (iii) the Primary Ferry Service for more than five (5) consecutive days, each subject to Force Majeure as defined herein;

ii. PIFC fails or refuses, for any reason, to pay all or any part of the Base Rent or Additional Rent within ten (10) days after written notice from the City that such payment is past due;

iii. PIFC fails or refuses, for any reason, to timely observe or perform any other covenant, condition or agreement on its part to be observed or performed hereunder, for a period of thirty (30) days after receipt of written notice from the City specifying such failure; provided, however, that if such observance or performance requires work to be done, actions to be taken or conditions to be remedied which by their nature cannot reasonably be accomplished within such thirty (30) day period, if PIFC shall commence such observance or performance

within such period and shall be proceeding diligently and continuously with respect thereto then the fact that the same shall not have been corrected during such period shall not constitute an Event of Default; provided, however, that such covenant, condition or agreement shall be observed or performed not later than ninety (90) days after first required to be observed or performed subject to Force Majeure;

iv. PIFC becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to, or acquiesces in the appointment of a trustee, receiver, custodian, conservator, liquidator or other judicial officer (similar or dissimilar) for PIFC or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustees receiver, custodian, conservator, liquidator or other judicial officer (similar or dissimilar) is appointed for PIFC or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or any proceeding under Federal or state bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by laws against PIFC and, if instituted against PIFC, is consented to or acquiesced in by PIFC or is not dismissed within sixty (60) days; or

v. Any material statement or representation or any warranty made by PIFC in this Agreement, or in any writing delivered by PIFC pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect.

b. On the occurrence and continuation of an Event of Default, the City may, without further demand or notice, take one or more of the following actions:

i. Terminate this Agreement, reenter and take possession of the Ferry Property and exclude PIFC therefrom;

ii. Take whatever action at law or in equity may appear necessary or desirable to collect the Rent then due with respect to the Ferry Property, or enforce performance and observance of any obligation, agreement or covenant of PIFC under this Agreement and/or

iii. Exercise any and all remedies that the City may be entitled to at law or in equity.

- c. Upon the expiration or termination of this Agreement, PIFC shall deliver possession of the Ferry Property to the City in the condition, repair and working order required in Section 12 (b) hereof.
- d. To entitle any party to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Agreement. No remedy herein conferred upon or reserved to the City shall be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity.
- e. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder and shall not be construed to be an implied term hereof or a course of dealing between the parties.

27. Re-entry by the City.

If PIFC shall default in the payment of any Rent, and this Agreement shall terminate as provided in Section 26 hereof, the City or the City's agents and employees may immediately or at any time thereafter re-enter the Ferry Property, or any part thereof, either by summary dispossession proceedings, or by any suitable action or proceeding at law, or otherwise, without being liable for indictment, prosecution or damages therefor, and may repossess the same, and may remove any person therefrom, to the end that the City may have, hold and enjoy the Ferry Property. The word "re-enter", as used herein, is not restricted to its technical legal meaning. If this Agreement is terminated under the provisions of Section 26 hereof, or if the City shall re-enter the Ferry Property under the provisions of this Section 27, or in the event of the termination of this Agreement, or of re-entry, by or under any summary dispossession or other proceedings or action or any provision of law by reason of default hereunder on the part of PIFC, PIFC shall thereupon pay to the City the Rent (or use and occupancy charges at the same rate as the Rent) payable up to the later of the time of such termination of this Agreement, or of such recovery of possession of the Ferry Property by the City, as the case may be.

28. No Waiver.

The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Agreement, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Agreement or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. No executory agreement hereafter made between the City and PIFC shall be effective to change, modify, waive, discharge, terminate or effect an abandonment of this Agreement, in whole or in part, unless such executory agreement is in writing, refers expressly to this Agreement and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge or termination or effectuation of the abandonment is sought.

29. Performance by City.

If PIFC shall default in the performance of any of PIFC's obligations under this Agreement, the City, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account and at the expense of PIFC, without notice in a case of emergency, and in any other case only if such default continues after the expiration of thirty (30) days from the date the City gives PIFC notice of the default subject to Force Majeure. Bills for any expenses incurred by the City in connection with any such performance by it for the account of PIFC, and bills for all costs, expenses and disbursements of every kind and nature whatsoever, including reasonable attorneys' fees and expenses, involved in collecting or endeavoring to collect the Rent or any part thereof or enforcing or endeavoring to enforce any rights against PIFC or PIFCs obligations hereunder, under or in connection with this Agreement or pursuant to law, including any such cost, expense and disbursement involved in instituting and prosecuting summary proceedings or in recovering possession of the Ferry Property.

30. Marketing.

PIFC, as operator of the Primary Ferry Service, will be responsible for advertising and marketing of the service at its own expense. Promptly following the execution and delivery of this Agreement, PIFC shall prepare and submit to the City for its approval, which approval shall not be unreasonably withheld or delayed, a proposed marketing plan for the Primary Ferry Service to be provided hereunder. Such marketing plan shall include the marketing and advertising resources and strategies contained in the Proposal, and shall include a budget not less than that contained in the Proposal. Thereafter, PIFC shall in its discretion provide supplemental or additional marketing plans for such service. PIFC shall implement at its expense, all such marketing plans as shall be approved by the City.

31. Audit Rights.

a. PIFC shall keep and preserve at an office located in Weehawken, New Jersey accurate books and records in accordance with generally accepted accounting principles, consistently applied, reporting all revenues and Taxes collected in connection with the operation of the Primary Ferry Service for not less than ten (10) years. PIFC's books and records must include pertinent original business records related to the operation of the Primary Ferry Service. PIFC's books and records shall be open to the inspection of the City, City's employees, accountants, attorneys and/or designated representatives at all reasonable times, during business hours, at any time during the term of this Agreement upon notice to PIFC and for a period of ten (10) years after the expiration or earlier termination of the term of this Agreement.

b. The City shall have the right, in its sole discretion, to conduct an audit, from time to time, of all books and records of PIFC, which pertains to or reflect to any extent the source, nature and/or amount of revenues. Audits will be conducted by an independent, reputable, consulting firm or the City Treasurer, chosen by the City in its sole discretion. The determinations made pursuant to any audit will be conclusive and binding upon both the City and PIFC if neither the City nor PIFC shall fail to object thereto in writing within 15 days after receipt of the audit report, absent bad faith or fraud. If, based upon the audit report, a deficiency in the amount

of Rent (a “Deficiency”) paid by PIFC shall be discovered to have occurred, PIFC shall immediately pay to the City the amount of the Deficiency, together with interest thereon at the annual rate of twelve percent (12%) from the date same should have been paid until actually paid. If, based upon the audit report, a Deficiency of greater than five percent (5%) shall be discovered to have occurred, PIFC shall pay to the City, upon demand, all of the consultant’s fees and expenses incurred in connection with the audit, together with all attorneys’ fees and expenses incurred by the City in enforcing this provision.

32. Joint Venture.

Neither the City nor PIFC shall have any right hereunder to act as agent for the other nor shall any provision of this Agreement be construed as establishing a partnership, joint venture or other similar relationship between the parties.

33. Superseding Effect.

This Agreement is the entire agreement between the parties on the subject matter hereof and shall supersede and replace all other understandings and agreements between the parties hereto.

34. Assignment.

The City shall have the unrestricted right to assign this Agreement to any successor owner or ground lessee of all or portions of the Ferry Property.

35. Adjustments of Rents and Fees.

The Base Rent shall remain fixed, subject to the following:

- a. For years 1 through 5, the Base Rent shall be \$.30 per passenger with a minimum annual guarantee of \$50,000 per year;
- b. For years 6 through 10, the Base Rent shall be \$.33 per passenger with a minimum annual guarantee of \$50,000 per year;
- c. For years 11 through 15, the Base Rent shall be \$.37 per passenger with a minimum annual guarantee of \$50,000 per year;

d. For years 16 through 20, the Base Rent shall be \$.40 per passenger with a minimum annual guarantee of \$50,000 per year

36. Concessions.

In addition to the Primary Ferry Service, PIFC shall be permitted to operate certain concessions, or be permitted to allow third parties to operate concessions, within or adjacent to the Ferry Property with the prior written approval of the City (which approval shall not be unreasonably withheld). It is understood and agreed that any concession which may in the City's sole judgment result in the Ferry Property not qualifying for tax-exempt financing under Section 142(c) of the Internal Revenue Code will be prohibited. PIFC agrees that included within the concessions permitted to be operated pursuant to this Section 36 shall be food service facilities not in excess of the amount of such services required for the use by passengers of the Primary Ferry Service. The parties understand that the design of the ferry terminal currently contemplated will provide for a full restaurant that the City intends will be operated as a separate entity and such restaurant is not subject to the terms of this paragraph.

37. Transfers and Ground Transportation.

PIFC shall provide in accordance with its regular schedule services: (a) free transfers to other trans Hudson services provided by PIFC at Brookfield Place Terminal and Pier 79, and (b) to the extent available, free bus service from Pier 79.

38. Commencement Date.

The parties hereto acknowledge and agree that the commencement of the Primary Ferry Service no later than the Commencement Date is a material inducement to entering into this contract. If the Ferry Terminal and the Parking Facility are not completed on or before the Commencement Date (except for any delays due to, or arising out of, acts or omissions of PIFC), or PIFC fails to provide the Primary Ferry Service on the Commencement Date (in either event, for reasons other than Force Majeure), then the breaching party shall pay the non-breaching party liquidated damages in the amount of \$1,000.00 per day until full compliance by the breaching party. For purposes of this Agreement, "Force Majeure" is defined to mean events that are outside

the control of either party hereto, such as acts of god, acts of terrorism, insurrections, riots, epidemics, pandemics (including the Covid 19 pandemic), acts of governmental agencies, landslides, lightning, earthquakes, fires, floods, and explosions, civil disturbances, acts of the public enemy, war, occurrences of an environmental nature or labor disputes or strikes which delay the completion of the Ferry Terminal and/or the Parking Facility or commencement of the operation of the Primary Ferry Service or the performance of the parties thereafter.

39. Temporary Ferry Service: Notwithstanding the provisions of Section 1a. of this Agreement, the City shall have the right to notify PIFC of the commencement of the Primary Ferry Service prior to the completion of the Improvements and the determination of the Commencement Date (the "Temporary Ferry Service"), subject to the satisfaction of each of the following conditions:

- (i) The City shall have provided to PIFC no less than ninety (90) days prior written notice of the commencement date of the Temporary Ferry Service which commencement date shall be no later than December 31, 2022; and
- (ii) Prior to the proposed commencement date of the Temporary Ferry Service, the City shall have completed the installation of a ferry landing for the provision of the Temporary Ferry Service consisting of the installation of a barge and gangway attached either to the Pier or the Bulkhead and the City shall have constructed a temporary facility providing parking for approximately 250 automobiles. The plans for the ferry landing and parking facility shall have been submitted to and approved by PIFC and the ferry landing and parking facility installed and/or constructed in accordance with the plans.
- (iii) PIFC shall provide the Temporary Ferry Service pursuant to the terms and provisions of this Agreement; provided, however, notwithstanding the provisions of Section 6a. and 35, the Base Rent payable to the City for the provision of the Temporary Ferry Service shall not be subject to an annual minimum guarantee of \$50,000 per year.

40. Third Party Beneficiary.

Nothing contained in this Agreement shall be construed to confer upon any non-signing party the rights of a third party beneficiary to the rights contained herein, except as expressly permitted herein.

41. Waiver of Jury Trial.

Both the City and PIFC hereby mutually waive any and all right which either may have to request a jury trial in any proceeding at law or in equity in any court of competent jurisdiction.

42. Subordination.

This Agreement is subject and subordinate to any and all mortgages, liens ground leases or underlying leases which now or may hereafter affect the real property of which the Ferry Property is a part of an to all renewals, modifications, consolidations, extensions and replacements of any such instruments. This clause shall be self-operative and no further instrument of subordination shall be required by any ground or underlying landlord or by any mortgagee, affecting any lease or the real property of which the Ferry Property is a part. In confirmation of such subordination, PIFC shall from time to time, promptly execute any attornment certificate that the City or the holder of such mortgage, lien, ground lease or underlying lease may request. Notwithstanding the foregoing, in the event the City shall enter into a mortgage, lien, ground lease or underlying lease which may affect the real property of which the Ferry Property is a parts of the ground or underlying landlord or any mortgagee shall furnish to PIFC an agreement in recordable form to the effect that as long as PIFC is not in default of its obligations under this Agreement, (a) the rights of PIFC as provided in this Agreement shall not be disturbed by such ground or underlying landlord or mortgagee or by anyone claiming through such party, (b) PIFC shall not be named or joined as a party defendant in any proceedings arising from any mortgages, liens, ground leases or underlying leases, and (c) any such proceedings shall not in any way affect or impair PIFC's rights under this Agreement. In addition to the foregoing, the City shall obtain a non-disturbance agreement, in a form satisfaction to PIFC incorporating the foregoing, from any ground or underlying landlord or mortgagee. In case of the foreclosure

of a mortgage or the termination of any ground or underlying lease, PIFC covenants and agrees to attorn to any successor in interest and recognize such successor in interest under this Agreement.

43. Conflicts.

In the event of a conflict between this Agreement and the RFP, the terms of this Agreement shall govern.

44. PIFC Signs.

No signs will be placed on the Ferry Property by PIFC without the written consent of the City. The City's review of proposed signs shall include the number, size, shape, height, structure, material, content or text, illumination, and hours of illumination of all signs. In addition, signs shall comply with all legal requirements.

45. Operation of Ferry Property. The Primary Operator's duties with regard to the operation of the Ferry Property unless otherwise agreed with the Secondary and/or Special Operator(s) and the City, shall include:

- a. sufficient staffing for the Ferry Property at all times to
 - i. conduct ticket sales and provide for the dissemination of scheduling and other information for all operators;
 - ii. provide docking and approach assistance for all authorized vessels while landing or departing the landing site;
 - iii. perform the actual loading and unloading of all cargo;
 - iv. perform any other required incidental services; and security
- b. the storage of all cargo which is not immediately removed from the Ferry Property. The Primary Operator may, however, assess a reasonable daily storage charge, payable by an operator who does not remove cargo from the Ferry Property within 24 hours of its arrival. The City shall be entitled to receive 10% of any such storage charges on a monthly basis. The Primary Operator may also refuse to accept for storage any cargo which

would be inappropriate for storage or for which there is insufficient space at the Ferry Property.

46. Regulation of Parking Facility.

The City will be responsible for regulation of parking at the Parking Facility. It is the City's initial intention to allow free public parking, without restrictions. (Indeed, pursuant to permits governing the project, there must always be some reasonable "public access" to the property.) Nevertheless, the City recognizes that the viability of the ferry service depends on the existence of adequate parking for the ferry passengers. The City therefore agrees to take such reasonable steps from time to time as may be necessary to regulate the use of the Parking Facility in such a way that spaces are available for passenger parking in accordance with the RFP and PIFC's response thereto. Such steps, for example, may include prohibiting or regulating overnight parking, hourly parking restrictions, the reservation of spaces for ferry parking only, and so on.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

CITY OF SOUTH AMBOY

PORT IMPERIAL FERRY CORP.

By 
Mayor

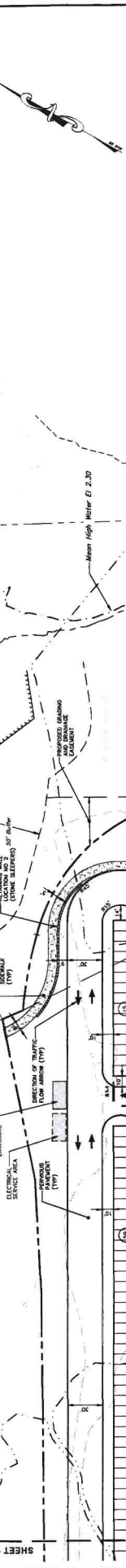
By 
President and CEO

Exhibit A

Block 161.02 Lots 90.01 & 25.074

Exhibit B

Ferry Facility Plan With Pier and Adjacent Areas



ADDITIONAL ITEM NUMBER	PAY ITEM NUMBER	TO BE CONSTRUCTED	PLAN SHEET QUANTITY
30	30	GEOTEXTILE	41.00
31	31	CONCRETE SIDEWALK	41.00
32	32	CONCRETE SIDEWALK	41.00
33	33	CONCRETE SIDEWALK	41.00
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98	98	CONCRETE SIDEWALK	41.00
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100	100	CONCRETE SIDEWALK	41.00

NOTES:

- SEE SHEETS 7 AND 8 FOR EXISTING CONDITIONS PLAN
- SEE SHEET 12 FOR PROPOSED LAYOUT



INSET

PLAN

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CONCRETE SIDEWALK

Exhibit C
Initial Ferry Schedule

EXHIBIT C

SOUTH AMBOY FERRY OPERATING SCHEDULE

AM Peak Vessel	Depart South Amboy	Depart Brookfield	Depart Pier 79
1	5:45 AM	6:35 AM	7:00
2	6:20 AM	7:10 AM	XXXX
2	8:15 AM	9:00 AM	9:15 AM
PM Peak Vessel	Depart Pier 79	Depart Brookfield	Depart South Amboy
2	3:15 PM	3:30 PM	4:20 PM
2	5:15 PM	5:30 PM	6:20 PM
1	6:15 PM	6:30 PM	7:20 PM

Exhibit D

NY Waterway List of Fixtures

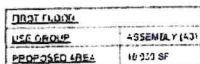
EXHIBIT D

EQUIPMENT AND FIXTURE LIST.

1. All office furniture suitable for ticket agents and managers, including desks, chairs, file cabinets, safes, and storage cabinets and shelves.
2. All ticketing equipment necessary for the production, sale, and distribution of ferry tickets.
3. All necessary information services equipment including computers, telephones, fax machines, passenger information displays and employee payroll.
4. With respect to the café and other first floor vendor spaces, NY Waterway's affiliated vendors will provide the equipment and fixtures necessary and appropriate for their individual businesses.

Exhibit E

NY Waterway's First Floor Area of Responsibility



1 FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"