

Torres-Rojas, Genara

From: wbierce@biercekenerson.com
Sent: Friday, August 07, 2015 12:40 PM
To: Olivencia, Mildred
Cc: Torres-Rojas, Genara; Van Duyne, Sheree; Ng, Danny
Subject: Freedom of Information Online Request Form

Information:

First Name: William
Last Name: Bierce
Company: Bierce & Kenerson, P.C.
Mailing Address 1: 420 Lexington Avenue
Mailing Address 2: Suite 2920
City: New York
State: NY
Zip Code: 10170
Email Address: wbierce@biercekenerson.com
Phone: 2128400080
Required copies of the records: Yes

List of specific record(s):

Any and all contracts and agreements with NY Waterway, or any of its subsidiaries, including copies of all amendments, modifications, renewals and addenda to said contracts or agreements.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

August 28, 2015

Mr. William Bierce
Bierce & Kenerson, P.C.
420 Lexington Avenue, Suite 2920
New York, NY 10170

Re: Freedom of Information Reference No. 16232

Dear Mr. Bierce:

This is in response to your August 7, 2015 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy enclosed) for copies of any and all contracts and agreements with NY Waterway, or any of its subsidiaries, including copies of all amendments, modifications, renewals and addenda to said contracts or agreements.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/16232-C.pdf>. Paper copies of the available records are available upon request.

Pursuant to the Code, certain portions of the material responsive to your request are exempt from disclosure as, among other classifications, privacy.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Danny Ng
FOI Administrator

Enclosure

*4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 7348 F: 212 435 7555*

THE PORT AUTHORITY OF NY & NJ

March 16, 2005

ECONOMIC DEVELOPMENT DEPARTMENT
NEWARK LEGAL CENTER
ONE RIVERFRONT PLAZA, 9TH FLOOR
NEWARK, NEW JERSEY 07102

(201) 595-4510 NEW JERSEY
(212) 435-7000 NEW YORK

Billybey Ferry Company, LLC
D/B/A NY Waterway South
110 East 59th Street
New York, NY 10022
Attn: Mr. William Wachtel ("Assignee")

Port Imperial Ferry Corp.
Pershing Road
Weehawken, NJ 07087
Attn: Mr. Arthur Imperatore Sr. ("Assignor")

Re: Assignment of Ferry Transportation Agreement between the Port Authority of NY & NJ and Port Imperial Ferry Corporation as Successor to Arcorp/Hartz dated November 3, 1988 and Agreement dated November 4, 2003 for Pier 11 Service between the Port Authority of NY & NJ and Port Imperial Ferry Corporation.

Dear Mr. Wachtel,

In order to continue an important alternative transportation mode for New Jersey and New York commuters, this agreement will serve to set forth the agreed upon terms between the Port Authority of New York & New Jersey ("Port Authority") and Billybey Ferry Company, LLC, a Delaware limited liability corporation ("BBFC") and Port Imperial Ferry Corporation d/b/a NY Waterway for the complete assignment of the above referenced agreements for the operation of ferry services between the property procured by the Port Authority at New Jersey Transit's Hoboken Terminal, Hoboken, New Jersey ("Hoboken") and the property procured by the Port Authority at Battery Park City ("BPC") and between said Hoboken Terminal and Pier 11 in Manhattan. The Port Authority acknowledges that BBFC is not assuming any liabilities or obligations of Port Imperial Ferry Corporation under the existing agreements.

The assignment is being made in recognition of the

1. Succession of Port Imperial Ferry Corporation d/b/a NY Waterway to the rights of Arcorp/Hartz under the 1988 Agreement
2. The December 20, 2004 Asset Purchase Agreement between Port Imperial Ferry Corporation and BBFC (formerly known as MPWBP, LLC) and Arthur E. Imperatore and,
3. The February xx, 2005 Vessel Management Agreement between Port Imperial Ferry Corporation and BBFC;
4. and the February xx, 2005 Management Personnel Agreement between Port Imperial Ferry Corporation and BBFC; and those fully executed Agreements under 2 and 3 shall be deemed part of this Agreement.

The Ferry Transportation Agreement between the Port Authority of NY & NJ and Arcorp/Hartz dated November 3, 1988, and the Hoboken – Pier 11 Ferry Transportation Agreement between the Port Authority of New York and New Jersey and *Port Imperial*

Ferry Corporation dated November 19, 2003 are hereby assigned to NY Waterway South. The assigned agreements are hereby restated as follows:

Grant of Right to Operate Ferry Services

1.01 The Port Authority hereby grants BBFC the exclusive rights, to the extent permitted by Law:

- a) to operate passenger ferry service between Hoboken, BPC and Pier A, and between Hoboken and Pier 11;
- b) the provision of the services shall be subject to all the provisions of the Agreements between the property owners (NJ Transit at Hoboken and Hugh F. Carey Battery Park City Authority and New York State at Battery Park City) and The Port Authority. The executed Battery Park City Authority Agreement dated November 9, 2004 shall be deemed part of this Agreement and, upon execution a copy of the NJ Transit Agreement shall be annexed to this Agreement and said Agreement shall be deemed part of this Agreement.

1.02 The "current" Space at Hoboken is depicted in Exhibit A and the "current" Space at Battery Park City is depicted in Exhibit B. "Space" as used herein shall mean the two areas as so depicted.

1.03 The parties acknowledge that the Space designated in Exhibits A and B constitutes non-residential real property. The Port Authority understands that as a requisite to this Agreement, an agreement has been entered into between Port Imperial Ferry Corporation and BBFC. The Port Authority shall have no obligation under this Agreement for finishing work or preparation of either Space for BBFC's use, all of which shall be BBFC's obligation.

1.04 The Port Authority makes no representations as to the condition of waterways nor of each Space nor of the means of ingress thereto and egress there from and does not agree to keep the same unobstructed or fit for use. Any required maintenance dredging during the term of the contract is the obligation of BBFC. No closing by the Port Authority of said waterways or portions thereof, or whether temporary or permanent, whether or not such closings involve waterways or means of ingress or egress previously used by BBFC hereunder, and no such closing by any governmental authority, whether of the waterways or other areas within or outside each Space, and whether or not at the request or with the consent of the Port Authority, shall constitute or be deemed diminution of the terms of this agreement, or relieve BBFC of any of its obligations hereunder, provided that BBFC shall be under no obligation to continue ferry service during any period in which the waterways are not navigable, except where maintenance dredging is required, or during any period in which the Port Authority or other government entity has closed such waterways or means of ingress or egress.

1.05 BBFC shall arrange to staff all operating positions as required herein and shall manage and oversee the operations and maintenance of the ferry service system. The Port Authority shall not be required to provide any staff or to oversee any of the day to day operations but shall have at all times the right to inspect, observe and comment upon all operations of BBFC.

1.06 Notwithstanding any other right of termination set forth herein, upon prior written notice of any material breach or deficiencies in operations and/or maintenance, and a 30-day opportunity to cure by BBFC, or to initiate a cure within a reasonable period and to achieve such cure within a reasonable period, if cure cannot be reasonably effected in 30 days in the opinion of the Port Authority, the Port Authority shall have the right in its sole discretion to terminate or suspend this agreement immediately if deficiencies in operations are not corrected. Any costs or lost revenues resulting from any termination or suspension will be the sole responsibility of BBFC. Any inspection, observations, or comments by the Port Authority shall not release BBFC of any obligation under this Agreement or by reason of Law.

For purposes of this agreement, breach shall include any material breach, not to be limited to the following, whether or not the time has arrived for the performance of a material obligation under this agreement; a statement by an authorized BBFC representative to any representative of the Port Authority indicating that BBFC cannot or will not perform any one or more of its material obligations under this contract; any act or omission of BBFC or any other occurrence which makes it improbable at the time that it will be able to perform any one or more of its material obligations under this contract; any suspension or failure to proceed with any part of its services or material obligations by BBFC which makes it improbable at the time that it will be able to perform any one or more of its material obligations under this contract.

The Port Authority shall also have the rights as set forth above in the event BBFC shall become insolvent or bankrupt or if its affairs are placed in the hands of a receiver, trustee or assignee for the benefit of creditors, unless the Port Authority shall in its sole discretion determine that the BBFC is sufficiently solvent to continue performance.

1.07 BBFC shall have no right hereunder to carry on or conduct any business operation or service at either Space other than as specifically set forth herein. BBFC agrees it shall not solicit business in the public areas of each Space without the written permission of the Port Authority. This Agreement shall in no way limit BBFC's ability to market this service in other locations. The use, at anytime, of hand or standard megaphones, loudspeakers or any electric, electronic or amplifying devices is hereby expressly prohibited for the purposes of solicitation. BBFC will have the right to use loud speakers or electronic amplification devices in the ordinary course of business for announcements, departures/arrivals and/or emergencies.

1.08 It should be noted that the Port Authority has established a policy that proactive, responsive and respectful and helpful customer service to all customers is of the utmost importance. This policy also extends to all Port Authority employees and contractors, and includes companies whose staffs interact with customers while providing services.

1.09 BBFC shall not be entitled to any financial compensation or subsidy or payment whatsoever from the Port Authority. BBFC shall bear all costs of the operation including any utility costs.

Term of Agreement

2.01 Subject to 2.02 below this agreement shall become effective upon the execution and commencement of the March 11, 2005 Vessel Management and the March 11, 2005 Management Agreements between Port Imperial Ferry Corporation and BBFC, the consummation of the December 20, 2004 Asset Purchase Agreement which must include schedule 3.1(b) the allocation of MARAD debt, and upon receiving written notification of commencement of this agreement from the Port Authority, and shall remain in effect until the existing contract term of October 11, 2009.

2.02 Conditioned on BBFC successful demonstration to the Port Authority of the continued operation of ferry routes originating in Pavonia/Newport, Harborside, Liberty Harbor and Port Liberte, New Jersey to lower and midtown Manhattan (including to BPC), similar to those run by NY Waterway at the inception of this Agreement (provided that BBFC may alter schedules, change routes or suspend service so long as it (or its successors) maintains substantially the same system as the southern routes run by NY Waterway at the inception of this Agreement), BBFC shall have the option to continue this agreement for five additional years. This option must be exercised in writing within 18 months prior to the contract termination of October 11, 2009. Upon exercise of the option, continuance of the substantially the same routes shall become a requirement of this contract.

2.03 The parties acknowledge that the obtaining of authorization by the Port Authority Board of Commissioners of this agreement (which becomes final upon the New York and New Jersey Governors' approval) constitutes a condition precedent to its continuance.

Description of Ferry Service

3.01 Service Requirements - BBFC agrees to provide initial weekday (Monday – Friday) ferry service between Hoboken and BPC and Hoboken and Pier 11 as outlined in the schedule provided as Attachment “A – Schedule of Services”.

3.02 Reduction in Service - Any decrease in frequency of service, or weekend service, will require prior written notification to the Port Authority; however, BBFC must remain in accordance with the minimum service requirements set forth in Section 3.04.

3.03 Additional Ferry Services - For services from Hoboken to locations other than Pier 11, BPC and Pier A, BBFC must request in writing and receive written consent from the Port Authority in advance of initiating service.

3.04 Peak Period Service Capacity - The ferry system provided by BBFC under this Assignment Agreement, other than that described in 2.02, will at a minimum consist of (i) for the Hoboken to BPC service, three vessels capable of maintaining hourly capacity sufficient to effectively handle the actual volume of passengers and a minimum of approximately 800 per peak hour(8 am - 9 am), and (ii) for the Hoboken to Pier 11

service, four vessels capable of maintaining hourly capacity sufficient to effectively handle the actual volume of passengers and a minimum of 1125 per peak hour (8 am - 9 am). Upon Port Authority approval, BBFC will adjust the schedule and headway to accommodate any changes in volume. BBFC resources will be re-allocated as needed to handle all volumes of passenger traffic.

3.05 Spare Vessels - BBFC will have readily available, at minimum two comparable spare vessels capable of being promptly put into service as an immediate replacement for any vessel unable to perform as required.

3.06 Schedules - As appropriate to the success of the ferry service operation, BBFC will publish, distribute and post Port Authority approved schedules twice a year, more frequently upon mutual consent. BBFC shall have the right to undertake minor changes in the posted schedule due to daily operational considerations.

3.07 Fueling and Waste Disposal - Fueling of vessels and garbage disposal (including liquid and solid waste) is not allowed at either Space (Hoboken or BPC).

3.08 Midday and Overnight Storage - Overnight and midday storage of vessels at Hoboken is permitted. Storage is not permitted at BPC other than in emergency situations.

3.09 Vessel Maintenance - Routine light cleaning and light maintenance is permitted at Hoboken but not at BPC, other than in emergency situations.

3.10 Hoboken and BPC Ferry Landing Facilities - Prior to the termination date of this agreement, BBFC may be required by the Port Authority under the terms and conditions of this assignment, to relocate the ferry service and its operations to new, permanent ferry facilities located in the historic Hoboken Erie Lackawanna Ferry Terminal, and/or Permanent Battery Park City Ferry Terminal, all at BBFC's cost. A minimum of 30-days notice will be provided.

a. Facility Operation/Maintenance

BBFC will be solely responsible for the acquisition and/or ongoing lease of the requisite barges currently utilized at the temporary Hoboken and Battery Park City facilities.

BBFC will be responsible for the operation and maintenance of the temporary and when certified for occupancy, the permanent terminals and landing facilities at Hoboken and BPC at no cost to the Port Authority, provided that the Port Authority shall be responsible for structural maintenance and heavy repairs to the permanent facilities, piers and subsurface structures. Except with the prior written consent of the Port Authority (via the Tenant Alteration Application procedure), BBFC shall not erect any structures, make any improvements or modifications, or do any other construction on the premises.

BBFC accepts the NY Waterway previously commented upon designs of all docking facilities for the permanent landing facilities at BPC and Hoboken, in accordance with the plans and specifications heretofore

delivered to BBFC by the Port Authority. BBFC will have further opportunity to comment on the Hoboken plans before they are finalized.

BBFC will be responsible for ensuring that all operations of the temporary and any new terminal and landing facilities at Hoboken and BPC are in compliance with the Port Authority Rules and Regulations for each facility which are subject to change (see Attachments "C" and "D").

Cleaning and maintenance tasks will, at a minimum, be sufficient to meet all health and sanitation codes and to present a facility that is clean, safe and operates in a reliable and environmentally sound fashion while adhering to all applicable Port Authority standards.

b. Additional Usage of each Space

BBFC shall not utilize either Space for any purpose other than the services outlined in this agreement without the Port Authority's prior written approval, which may require a sharing of revenues.

BBFC shall collect all rental income attributed to the leasing of terminal concession facilities and advertising at Battery Park City. The Port Authority shall receive 25% of gross receipts of said revenues beginning the earlier of the opening of the new Battery Park City Terminal or January 1, 2007. Receipts received or receivable by BBFC for said revenues will be remitted to the Port Authority for each quarter year of BBFC's operation. The Port Authority audit rights hereunder shall extend to all such transactions. Similar arrangements shall apply to any concession or advertising opportunities at the new Hoboken terminal. BBFC may retain 100% of any concession or advertising revenues at the existing Hoboken terminal.

c. Additional Operators

At the request of the Port Authority and, subject to the grant of exclusivity in this agreement, BBFC will allow other ferry service providers to land at each Space as long as they do not interfere with the operation of ferry services covered by this agreement as determined by the Port Authority. BBFC agrees to work in harmony with any other ferry service provider operating at either Space. Additionally, BBFC shall not allow any other operator use of either Space without prior express written approval from the Port Authority. In consideration of the administrative oversight of the landings, which includes collection of fees, landing slot assignments, enforcement of Port Authority Rules and Regulations (as provided in Attachment C and D - Hoboken and BPC Ferry Terminal Rules and Regulations), insurance certificate reviews and other related activities, BBFC shall set reasonable and non-discriminatory landing fees for accommodating such services, which fees shall be subject to Port Authority approval. The Port Authority hereby approves the form of Landing Slot Authorization annexed hereto as Attachment F and the initial fee schedule set forth therein. BBFC may increase the rates contemplated by such initial fee schedule at the time the new terminal at Battery Park City is operational, subject to the prior consent of the Port Authority

BBFC will be entitled to 75 percent (75%) of any landing fees collected. Receipts received or receivable by BBFC from other operators for the use of either space will be remitted to the Port Authority for each quarter year of BBFC's operation on such 25%/75% basis. If BBFC incurs any extraordinary expenses in the operation or maintenance of the terminal facilities (existing or new), such extraordinary expenses may be deducted with the Port Authority's approval, which will not be unreasonably withheld, from the gross landing fees before determining the portion thereof to be remitted to the Port Authority. The Port Authority audit rights hereunder shall extend to all such transactions.

d. Improvements

Any improvements, structures, or modifications for the enhanced operation of a ferry service contemplated by BBFC from either Space, in addition to those required herein, will be at the sole expense of BBFC and require Port Authority's prior written consent. All agreed upon modifications must adhere to Port Authority Tenant Construction or Alternation Application procedure (Exhibit F) as well as follow the guidelines set forth in the Tenant Construction Review Manual (Exhibit G).

Upon expiration or earlier termination of the assignment, BBFC shall have the option to remove its trade fixtures and improvements and the BBFC shall repair, at the BBFC's sole cost, any damage to either Space caused by such trade fixtures, improvements, or their removal.

3.11 Vessels

- a. Vessels utilized under this agreement shall be of the same class and standard as BBFC's monohull vessels "Empire State", "Garden State", and/or "Henry Hudson"; or double deck 149 passenger catamarans "Christopher Columbus, Fiorella LaGuardia, Frank Lautenberg, Frank Sinatra, and/or Hoboken; or receive Port Authority written approval for its use. All of BBFC's performance hereunder shall be in compliance with all applicable legal requirements.
- b. The Port Authority may establish a "certification" program to ensure that all vessels using either Space are continuously in compliance with all federal and state air and noise quality guidelines and standards applicable to ferry operators. Any operator utilizing the premises will be required to participate.
- c. The Vessel Security Plan relating to operations under this agreement shall conform to all rules and regulations set forth by any applicable regulatory body. Proof of compliance with any such rules and regulations will be supplied to the Port Authority annually or at any time requested by the Port Authority.

- d. The Port Authority, in its sole discretion, may establish a monitoring plan for vessels utilizing either Space. BBFC will be required to cooperate without unreasonable expense or interference with operations as determined by the Port Authority.
- e. During adverse weather conditions such as ice, if ferry service is suspended, BBFC will provide customer service information advising passengers to utilize other forms of transportation.
- f. The Port Authority shall maintain the right to inspect BBFC's vessels assigned to operations under this agreement from any embarkation/debarkation site, as well as to monitor BBFC's adherence to the established service schedule by periodically assigning personnel to travel on route trips.

4.01 Fares

- a. The following fare schedule shall be in effect for Pier 11 service:

One-Way	\$4.00
10 trip	\$36.00
Monthly	\$123.00

- b. The following schedule shall be in effect for BPC service:

One-Way	\$3.50
10 trip	\$32.75
Monthly	\$107.00

- c. BBFC shall establish a fare schedule for Pier a service, which shall be no greater than the Schedule for Pier 11 service.
- d. Stated fares for both the Pier 11 and BPC services shall remain unchanged for the immediate six-month period following the effective date of this assignment.
- e. BBFC may increase average ticket fares by no more than \$.50 per year during each year of this agreement (including the option period) except during 2006, provided that fares may be increased above such limits in the event of demonstrated extraordinary increase in fuel or insurance costs, such increase to be submitted to the Port Authority for approval as to reasonableness prior to implementation. BBFC shall furnish the Authority with all relevant documentation, certified as to its accuracy by BBFC's Chief Financial Officer, with each request for a fare change. Concurrence will not be unreasonably withheld. Monthly or 10 trip tickets may be proportionately increased. BBFC may, following the effective date of this agreement, eliminate monthly or 10 trip tickets or may change to a 20 or 40 trip ticket, with similar discounts to those currently applicable to monthly tickets. Deferred increases may be implemented at any subsequent point.

- f. Fares shall be published at the same time as the ferry schedule and simultaneously distributed and posted.
- g. All passenger fare increases require 45 days written notification to the Port Authority.
- h. Any discounts, special promotions or fare reductions will require the Port Authority's prior written consent. Such approval shall not be unreasonably withheld and will be deemed given if there is no response after three business days.

Advertising

5.01 Marketing Program

- a. All marketing materials and press releases are to be reviewed and approved by the Port Authority prior to release. Such approval shall not be unreasonably withheld and will be deemed given if there is no response after three business days.
- b. **Signage**
Any supplemental signage deemed necessary to support the ferry service operations distributed herein shall be at BBFC's sole expense and must be approved in writing by the Port Authority.
- c. The Port Authority will make its transportation facilities available without charge for signage, information and advertising including PATH trains but excluding the PATH stations.

Insurance

6.01 During the term of this agreement, BBFC shall obtain and maintain, at its own expense, the policy or policies of insurance set forth on the attached Exhibit C. Copies of all applicable policies will be submitted within 30-days of the execution of this agreement, and subsequently on an annual basis.

Permits

7.01 BBFC shall be responsible for obtaining all governmental permits, licenses and agreements required for the utilization of the landing sites at Pier 11 and Pier A, and the operation of commuter ferry services as described herein thereat. In all of its performance under this agreement NYW shall comply with all applicable legal requirements.

Performance of Work

8.01 In the event of a BBFC default, the Port Authority shall have the right to take possession of and use or permit the use of any and all plant, materials, equipment and

other facilities provided by BBFC for the purpose of performing under this Agreement, and BBFC shall not remove any of the same without express permission. Unless expressly directed to discontinue the performance of all services and obligations, BBFC shall continue to perform the remainder thereof in such manner as in no way will hinder or interfere with the portions taken over by the Authority.

Representations and Warranties

9.01 BBFC represents and warrants:

- a. That it is financially solvent, that it is experienced in and competent to perform the type of services contemplated by this Agreement, and, that or its agents is authorized to perform this Agreement.
- b. That it has carefully examined and analyzed the provisions and requirements of this Agreement and inspected the ferry landing sites and other sites related to this Agreement and that from its own investigations it has satisfied itself as to the nature of all things needed for the performance of this Agreement, the general and local conditions and all other matters which in any way affect this Agreement or its performance, and that the time available for such examination, analysis, inspection and investigation was adequate:

Indemnifications

10.01

BBFC hereby covenants and agrees that it will defend, indemnify and save harmless the Port Authority, its Commissioners, officers, agents, representatives and employees against, any and all claims demands, penalties, fines, settlements, damages, injuries, losses, expenses and judgments of whatever kind or nature to the extent arising out of the negligent or wrongful acts or omissions of BBFC or of any of its Directors, officers, agents, subcontractors, representatives and employees, provided, that BBFC shall have no obligation with respect to damages to the extent caused by the negligence and/or intentional tortious acts of the Port Authority, its Commissioners, officers, agents, representatives and employees. In such defense, BBFC shall not without obtaining express advance permission from the General Counsel of the Authority raise any defense involving any way jurisdiction of the tribunal, immunity of the Authority, governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority. Unless a claim is one BBFC is not required to indemnify the Authority against as described in this paragraph, such defense shall be at BBFC's cost.

No Commissioner, officer, agent or employee of the Authority shall be charged personally by NYW with any liability or held liable to it under any term or provision of this agreement, or because of its execution or attempted execution or because of any breach hereof.

This provision shall supercede the section entitled "Indemnification and Risks Assumed by the Contractor" in the attached "Standard Terms and Conditions" (Attachment E).

No Indictments

11.01 BBFC and each of its constituent entities and affiliates certifies that neither it or any entity on whose behalf it is executing this agreement (a) has been indicted or convicted for any felony in any jurisdiction; (b) has been suspended or debarred or otherwise disqualified from entering into contracts with any governmental agency for breach of contract or for any cause related directly or indirectly to indictment or conviction. This certification shall be deemed to include officers, directors, and shareholders with an equity interest in excess of 10% and to have been authorized by the boards of directors of BBFC.

11.02 Additionally, if any director, officer or employee of BBFC is indicted for a felony prior to or during the term of this Agreement, they must be immediately terminated from employment.

Revenue Obligation

12.01

- a. A \$0.10 per passenger Hoboken departure fee calculated and paid to the Port Authority quarterly commencing upon the effective date of this assignment is applicable to all services agreed upon in this assignment except those described in 2.02. Such per passenger Hoboken departure fee shall be increased to \$0.15 per passenger during the renewal term.

Passenger Fee Payments and other fees as outlined in section 3.10b and 3.10c of this Agreement shall be made to the Port Authority within 45 days following the end of each quarter year of the BBFC's operation hereunder. For each month of operation, the BBFC agrees to provide the Port Authority with an activity report for the daily operation of all Hoboken services within 15 days of the subsequent month including the mix of ticket types (i.e. single trip, ten trip and monthly). The activity report format shall be subject to Port Authority approval and shall show daily passenger trips in each direction by am and pm periods. BBFC shall propose an auditable method of keeping passenger counts within 30 days of execution of this agreement for Port Authority Audit Department approval. Included in such proposal shall also be an auditable method of accounting for landing fees collected and advertising and concessionaire revenues. BBFC shall keep records of all financial and operations transactions (including passenger counts) and documents relating to this operation and agreement. The Port Authority shall have access to all such records and documents of BBFC during normal business hours up until three years past the expiration or termination of this Agreement. If within the aforesaid three year period the Authority has notified BBFC in writing of a pending claim by the Authority under or in connection with this Agreement to which any of the aforesaid records and documents of BBFC relate either directly or indirectly, then the period of such right of access

shall be extended to the expiration of 6 years from the date of termination with respect to the records and documents involved.

All BBFC subcontractors shall be subject to written prior approval of the Port Authority. Subcontractors shall have the same document retention and audit obligations as BBFC.

- b. Late Charges - If BBFC shall fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation, any payment of percentage or other charges, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (herein below described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefore by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Nothing in this Section is intended, or shall be deemed, to, affect, alter, modify or diminish in any way: (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section of this Agreement entitled "Termination"; or (ii) any obligations of BBFC under this Agreement. If the precise amount of any payment required to be made by BBFC under this Agreement cannot be known to BBFC, such payment shall not be deemed due to the Port Authority until ten (10) days after the Port Authority notifies BBFC of the amount of such payment. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.
- d. All payments under this agreement should be sent to the Port Authority as follows:

The Port Authority of New York & New Jersey
P.O. Box 95000-1517
Philadelphia, PA 19195-1517

Or via wire transfer to:

Name of Bank – Commerce Bank
Bank ABA Number – 026013673
Account Number -

- e. As security deposit BBFC shall have a \$30,000 Letter of Credit (Exhibit E) to the Port Authority upon commencement of services.
- f. In the event that BBFC or any affiliate executes an agreement with the National Parks Services for the provision of excursions to the Statue of Liberty, BBFC agrees to provide the Port Authority with a \$1 million payment. Full payment to the Port Authority shall be made in full within a one-year period following the commencement of said service.

Security and Emergency Response

13.01 BBFC will be responsible for providing appropriate security on a 24-hour basis for each Space. BBFC shall perform background investigations of all persons employed by it in the ferry operations. Security and emergency response plans will be submitted to the Port Authority within 60-days of this agreement and then annually. Security and emergency response plans must meet local, state, federal, and the Port Authority requirements and additionally meet the provisions of the Agreements between the Authority and the property owners (NJ Transit at Hoboken and Hugh F. Carey Battery Park City Authority and New York State at Battery Park City) and shall be subject to Port Authority approval.

13.02 Security/Contractor Identity and Background Checks under this agreement shall conform with a mutually agreeable plan to be supplied by the BBFC within 30 days of commencement of services. All employees stationed at each Space must adhere to specific security requirements and should carry and display an appropriate ID badge.

13.03 During emergency situations, BBFC agrees to use its best efforts to comply with requests by the Port Authority, within a reasonable time from any such emergency, to direct vessels assigned to this service as needed, unless otherwise directed by any government official or agency. It is understood that the Captain of any particular vessel has final approval of a vessel's ability to conduct any service. BBFC and the Port Authority agree that any such direction by the Port Authority will be subject to reasonable fees.

Miscellaneous

14.01 M/WBE Participation

The Port Authority of NY & NJ has a long-standing practice of making its business opportunities available to Minority Business Enterprises (MBE's) and Women owned Businesses (WBE's) and has taken affirmative steps to encourage such firms to seek business opportunities with the Port Authority. BBFC will use every good faith effort to provide for meaningful participation by Port Authority certified M/WBE's as defined in

this document, in all purchasing, subcontracting and ancillary service opportunities associated with this contract, including purchase of equipment, supplies and labor services. Good faith efforts include 1) dividing the services and materials to be procured into small portions where feasible, 2) giving reasonable advance notice of specific subcontracting and purchasing opportunities to such firms as may be appropriate, 3) soliciting services and materials from M/WBE's, which may be certified by the Port Authority and 4) insuring that provision is made for timely progress payments to the M/WBE's.

The Port Authority has a list of certified M/WBE firms, which are available to BBFC at their request. The Port Authority makes no representation as to the qualifications and ability of these firms to perform under this contract. BBFC may use firms, which are not on the list but will be required to submit, to the Port Authority's Business and Job Opportunity (BJO) for certification, the names of M/WBE firms it proposes to use. Only Port Authority certified M/WBE firms may be considered to meet the goals. For inquiries and assistance, please contact BJO at (973) 565-5533.

14.02 BBFC shall promptly supply the Port Authority with any data required for any local, state, federal or agency reporting requirements. Additionally, copies of any survey data collected by BBFC will be promptly supplied to the Port Authority.

14.03 Operations of Others - During the time that BBFC is performing under the agreement, other persons will be engaged in other operations on or about either Space including working on other Port Authority contracts, and pedestrian and vehicular traffic all of which shall remain uninterrupted.

BBFC shall so plan and conduct his operations as to work in harmony with others engaged at each Space and not to delay, endanger or interfere with the operations of others (whether or not specifically mentioned above), all to the best interest of the Authority and the public and as may be directed by the Port Authority

14.04 BBFC agrees that it will not contract with any third party if they are unable to perform its obligations under this contract or for the routes so assigned hereunder without the prior written approval of the Port Authority.

14.05 Notwithstanding the assignment of contract provisions of this Agreement, this Agreement serves to continue and not extinguish Port Imperial Ferry Corporation's obligation under the Hoboken to Battery Park City Agreement to remove the interim docking facilities referred to in subparagraph K of Section 3.02 of said Agreement, and under the Hoboken to Pier 11 Agreement for the payment of all rent and passenger fee obligations due up to the effective date of this assignment.

14.06 This Agreement contains the entire agreement of the parties. It may be amended only by a writing signed by all parties. This agreement shall be governed by and construed in accordance with the Law of the State of New York excluding conflicts of Law provisions. Any approvals provided for in this agreement shall not be unreasonably withheld. To the extent that this Agreement and Attachment E (Standard Contract Terms and Conditions) are inconsistent, this Agreement shall govern. Without limiting the generality of the foregoing, the default provisions of this Agreement shall supersede any default provisions in such Attachment E.

Agreement Contacts

Port Authority of NY & NJ - Ferry Transportation
General Manager
Port Authority of New York & New Jersey
233 Park Avenue South, 4th Floor
New York, New York 10003

Port Authority of NY & NJ – Legal Department
Herbert S. Somerwitz
Chief, Contracts Division
The Port Authority of New York and New Jersey
225 Park Avenue South, 14th floor
New York, NY 10003

Billybey Ferry Company, LLC
c/o Wachtel & Masyr, LLP
110 East 59th Street
New York, New York 10022
Attention: William B. Wachtel

We look forward to working with BBFC in promoting the use of ferries as a convenient, reliable and affordable alternative transportation for Hoboken to lower Manhattan commuters.

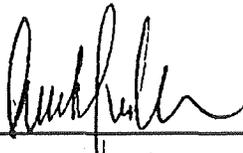
*original
initials*

Sincerely,

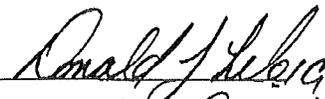
Michael B. François
Chief, Real Estate & Economic Development

Concurred:

Billybey Ferry Company, LLC (Assignee)

By: 
Title: C.E.O.
Date: 3/17/05

Port Imperial Ferry Corporation
(Assignor)

By: 
Title: Ex. Vice President
Date: _____

Exhibits & Attachments

Exhibits

Exhibit A – Demised Property for Hoboken Ferry Terminal (“Space”)

Exhibit B – Demised Property for Battery Park City Ferry Terminal (“Space”)

Exhibit C – Insurance Requirements

Exhibit D – NOT USED

Exhibit E – Letter of Credit Sample

Exhibit F – Tenant Construction or Alternation Application

Exhibit G – Tenant Construction Review Manual – March 2003

Attachments

Attachment A – Schedule of Service

Attachment B –Not Used

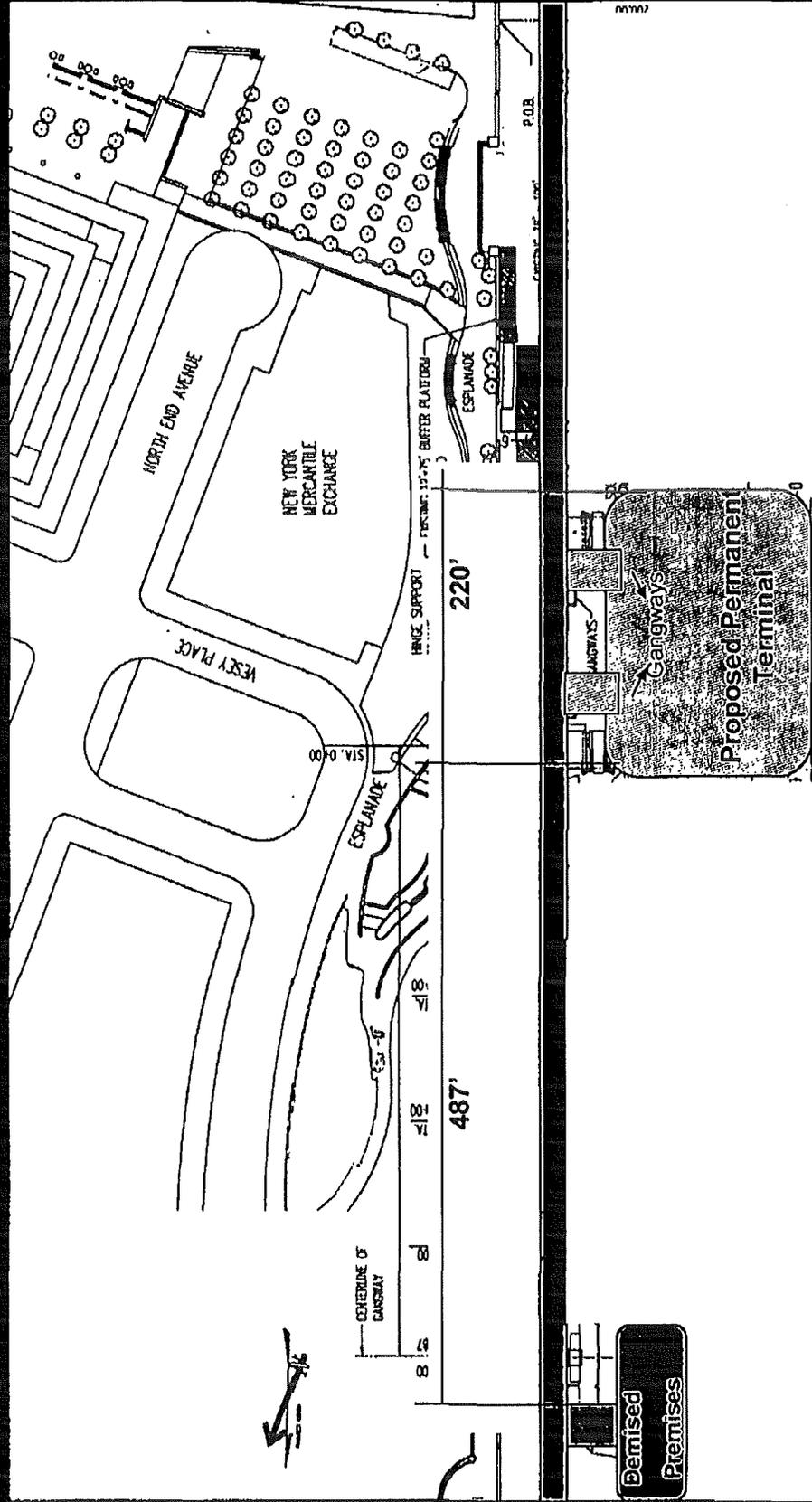
Attachment C – Hoboken Ferry Terminal Rules & Regulations – to be developed

Attachment D – Battery Park City Ferry Terminal Rules & Regulations / Landing Slot Authorization

Attachment E – “Standard Contract Terms and Conditions – Section D”

EXHIBITS

Exhibit A (Demised Premises)



THE PORT AUTHORITY OF NY & NJ

Exhibit B (Demised Premises)

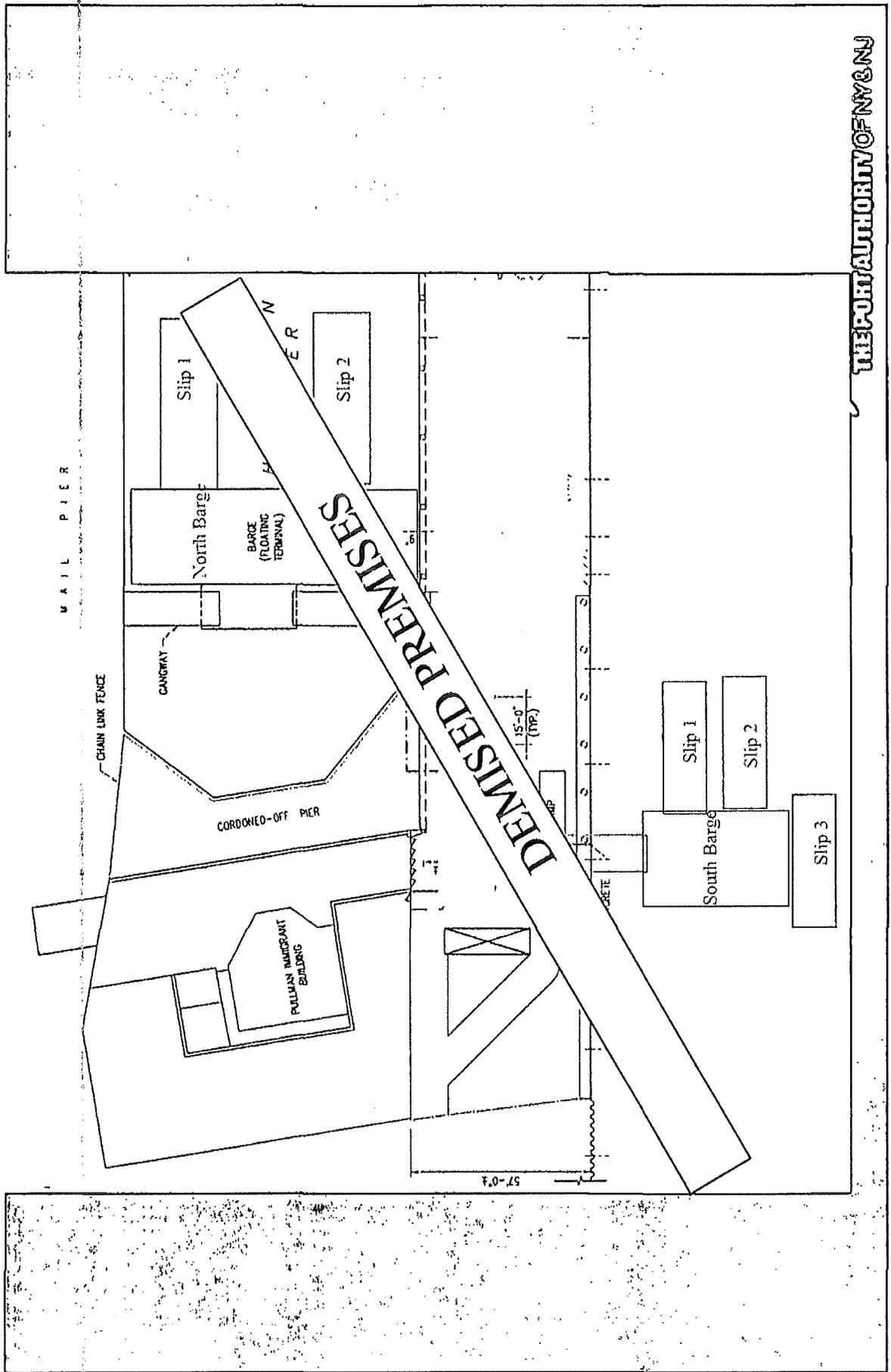


Exhibit C – Insurance Requirements

The Operator in its own name as assured shall secure and pay the premium or premiums for such of the following policies of insurance affording those coverages as to which minimum limits are fixed in the schedules set forth below. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Operator under this agreement, and shall be effective throughout the term of the agreement.

Public Liability Insurance Requirement *:

Commercial General Liability Insurance with minimum limits of \$10 million per occurrence for bodily injury and property damage liability including:

- The inclusion of The Port Authority of NY & NJ / PATH, Hugh L. Carey Battery Park City Authority, Battery Park City Parks Conservancy Corporation and NJ Transit as Additional Insured, including but not limited to premise-operations and completed operations.
- The Port Authority Immunity Clause.
- Cross-liability Clause.

Other coverage: \$ 50 million Protection & Indemnity Insurance.

Other Insurance: U.S. Longshoremen & Harbor Worker's Compensation Act Coverage Endorsement.

Other Insurance: Automobile Liability Insurance – \$2 million combined single limit per accident for bodily injury and property damage liability.

* The Commercial General Liability insurance policy minimum limits for the Operator's parking operations shall be \$10,000,000.

*Additional insurance requirements may be contained in either the provisions of the Agreements between the property owners (NJ Transit at Hoboken and Hugh F. Carey Battery Park City Authority and New York State at Battery Park City) and The Port Authority and shall be the deemed the responsibility of the Operator.

EXHIBIT E – LETTER OF CREDIT FORMAT

The Port Authority of New York & New Jersey
225 Park Avenue South, 12th Floor
New York, NY 10003

Date _____

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO.

_____ (C) _____

At the request of _____ (A) _____, we _____ (B) _____ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. _____ (C) _____ in your favor up to an aggregate of _____ (D) _____ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at

_____ (E) _____

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under _____ (B) _____ Letter of Credit No. _____ (C) _____ dated _____". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on _____ (F) _____

This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

BANK OFFICER/REPRESENTATIVE

LEGEND:

- A – INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME**
- B – INSERT NAME OF ISSUING BANK**
- C – INSERT L/C IDENTIFICATION NUMBER**
- D – INSERT DOLLAR VALUE OF INSTRUMENT**
- E – INSERT EXACT ADDRESS OF LOCAL BANK BRANCH**
- F – INSERT EXPIRATION DATE OF LEASE PLUS 180 DAYS**

*** Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval PRIOR to issuance in "Original" form. Otherwise, the Letter of

Credit can be rejected. If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. ****

ATTACHMENTS

ATTACHMENT A - HOBOKEN TO PIER 11 SCHEDULE

Departs Hob. So.	Departs Pier 11
A.M.	A.M.
6:00	6:15
6:20	6:35
6:30	6:45
6:40	6:55
6:50	7:05
7:00	7:15
7:06	7:21
7:12	7:27
7:18	7:27
7:24	7:33
7:30	7:39
7:36	7:45
7:42	7:51
7:48	7:57
7:54	8:03
8:00	8:09
8:06	8:15
8:12	8:21
8:18	8:27
8:24	8:33
8:30	8:39
8:36	8:45
8:42	8:51
8:48	8:57
8:54	9:03
9:00	9:09
9:10	9:15
9:20	9:25
9:30	9:35
10:00	9:45

Departs Hob. So.	Departs WFC	Departs Pier 11	Departs WFC
A.M.	A.M.	A.M.	A.M.
10:00	10:07	10:15	10:22
10:30	10:37	10:45	10:52
11:00	11:07	11:15	11:22
11:30	11:37	11:45	11:52
P.M.	P.M.	P.M.	P.M.
12:00	12:07	12:15	12:22
12:30	12:37	12:45	12:52
1:00	1:07	1:15	1:22
1:30	1:37	1:45	1:52

Departs Hob. So.	Departs Pier 11
P.M.	P.M.
2:00	2:15
2:30	2:45
3:00	3:15
3:15	3:30
3:25	3:40
3:35	3:50
3:45	4:00
3:53	4:08
4:01	4:16
4:09	4:24
4:17	4:32
4:25	4:40
4:33	4:48
4:41	4:56
4:49	5:04
4:57	5:12
5:05	5:20
5:13	5:28
5:21	5:36
5:29	5:44
5:37	5:52
5:45	6:00
5:55	6:10
6:05	6:20
6:15	6:30
6:25	6:40
6:35	6:50
6:45	7:00
6:55	7:10
7:05	7:20
7:15	7:30

Departs Hob. So.	Departs WFC	Departs Pier 11	Departs WFC
P.M.	P.M.	P.M.	P.M.
7:30	7:37	7:45	7:52
8:00	8:07	8:15	8:22
8:30	8:37	8:45	8:52
9:00	9:07	9:20	XX
Departs Pier 11	Departs WFC	Departs Colgate	Departs Hob. So.
P.M.	P.M.	P.M.	P.M.
9:20	9:30	9:38*	9:50*

*Drop Off Only

ATTACHMENT A -- HOBOKEN TO BATTERY PARK CITY SCHEDULE Page 1 of 1

Departs	Departs
Hob. South	WFC
A.M.	A.M.
6:00	6:10
6:20	6:30
6:30	6:40
6:40	6:50
6:50	7:00
7:00	7:10
7:08	7:18
7:16	7:26
7:24	7:34
7:32	7:42
7:40	7:50
7:48	7:58
7:56	8:06
8:04	8:14
8:12	8:22
8:20	8:30
8:28	8:38
8:36	8:46
8:44	8:54
8:52	9:02
9:00	9:10
9:10	9:20
9:20	9:30
9:30	9:40
9:40	9:50
9:50	10:00

Departs	Departs	Departs	Departs
Hob. South	WFC	Pier 11	WFC
A.M.	A.M.	A.M.	A.M.
10:00	10:07	10:15	10:22
10:30	10:37	10:45	10:52
11:00	11:07	11:15	11:22
11:30	11:37	11:45	11:52
P.M.	P.M.	P.M.	P.M.
12:00	12:07	12:15	12:22
12:30	12:37	12:45	12:52
1:00	1:07	1:15	1:22
1:30	1:37	1:45	1:52

*Drop Off Only

Departs	Departs
Hob. South	WFC
P.M.	P.M.
XX	1:40
1:50	2:00
2:00	2:10
2:10	2:20
2:20	2:30
2:30	2:40
2:40	2:50
2:50	3:00
3:00	3:10
3:10	3:20
3:20	3:30
3:30	3:40
3:40	3:50
3:50	4:00
3:54	4:08
4:02	4:16
4:10	4:24
4:18	4:32
4:26	4:40
4:34	4:48
4:42	4:56
4:50	5:04
4:58	5:12
5:06	5:20
5:14	5:28
5:22	5:36
5:30	5:44
5:38	5:52
5:48	6:00
5:58	6:10
6:10	6:20
6:20	6:30
6:30	6:40
6:40	6:50
6:50	7:00
7:00	7:10
7:10	7:20

Departs	Departs	Departs	Departs
Hob. South	WFC	Pier 11	WFC
P.M.	P.M.	P.M.	P.M.
7:30	7:37	7:45	7:52
8:00	8:07	8:15	8:22
8:30	8:37	8:45	8:52
9:00	9:07	9:20	XX
Departs	Departs	Departs	Departs
Pier 11	WFC	Colgate	Hob. South
P.M.	P.M.	P.M.	P.M.
9:20	9:30	9:38	9:50

ATTACHMENT D

**BATTERY PARK CITY FERRY TERMINAL
LANDING SLOT AUTHORIZATION AND RULES AND REGULATIONS**

This Authorization (the "*Authorization*"), made as of the ____ day of _____, 2005, is by and between **BILLYBEY FERRY COMPANY, LLC ("BBFC")**, having an address at c/o Wachtel & Masyr, LLP, 110 East 59th Street, New York, New York 10022, and _____, having a principal place of business at _____ ("*Ferry Operator*").

WITNESSETH

WHEREAS, BBFC is under contract to the Port Authority of NY & NJ (the "*Port Authority*") as the duly appointed operator of the ferry terminal at Battery Park City (the "*Facility*"); and

WHEREAS, BBFC is contracted to authorize ferry operators to land passenger ferries solely for the purposes of passenger embarkation and debarkation at the Facility, with the concurrence of the Port Authority, in accordance with the rules and regulations established in this Authorization; and

WHEREAS, BBFC is permitted to issue this authorization in consideration of the terms and conditions hereinafter set forth; and

WHEREAS, the Port Authority will act as the sole arbitrator for any disagreements between BBFC and Ferry Operator, and its decision is binding.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties hereto agree as follows:

1. Authorization: BBFC hereby grants to the Ferry Operator the right to use the landing slot(s) which are set forth on Exhibit A annexed hereto (the "*Landing Slots*"), to land the passenger ferries set forth on Exhibit E annexed hereto (the "*Vessels*") solely for the purpose of passenger embarkation and debarkation at the Facility during the days, and intervals, as set forth on Exhibit B annexed hereto and subject to the Additional Operating Rules as set forth on Exhibit D annexed hereto, which may be changed, modified, or added to, at any time by the Port Authority. The Ferry Operator shall notify BBFC in writing five (5) business days prior to a proposed change in the Vessels used for the Landing Slot(s). The use of the landing slot(s) by Ferry Operator shall at all times be subject to the limitation that such use does not interfere with the ferry services of BBFC.

2. Term: Subject to the provisions of this Authorization, authorization to use the Facility shall become effective as of February ____, 2005 (the "*Start Date*") and shall continue, unless revoked or earlier terminated pursuant to the terms of this Authorization, for a period of 12 months (the "*Term*").

3. Charges: Landing Slot fees are set by BBFC and approved by the Port Authority. The Ferry Operator shall pay fees for this Authorization (the "*Charges*") at the rate and in the manner set forth on Exhibit C. BBFC reserves the right to change the Charges and to amend the rate table as set forth on Exhibit C after giving a minimum of 90 days notice in writing to reflect any changes made to the Charges. If the Charges are increased by BBFC, the Ferry Operator may terminate this Authorization as of the effective date of the rate increase and receive a full refund of its Deposit (as defined below) within 30 days thereafter; provided, however, that the Deposit shall only be refunded to the Ferry Operator if a determination is made by BBFC and the Port Authority that the Ferry Operator has fully and faithfully

complied with all of the terms and conditions of this Authorization and that all Charges and other amounts which may become due hereunder have been paid by the Ferry Operator to BBFC or the Port Authority, as the case may be.

4. **Express Conditions:** This Authorization is expressly conditioned upon the Ferry Operator possessing, prior to the Start Date, and thereafter maintaining, all valid authorizations, franchises and other applicable approvals or consents from any and all governmental agencies (federal, state and/or local) (collectively referred to herein as the "**Approvals**") regarding the use and operation of the Vessels in general and to and from the Facility. The Ferry Operator shall provide BBFC with copies of written documentation of the Approvals prior to the Start Date. If any such Approvals are revoked or terminated at any time thereafter, this Authorization shall terminate if such Approvals are not reinstated or reissued within 30 days after such revocation or termination.

5. **Test Run:** As a condition to BBFC entering into this Authorization, at a time convenient for BBFC and the Port Authority, the Ferry Operator shall perform to the satisfaction of the Port Authority and BBFC one or more test runs at the Facility, including landing and tying up the Vessels and using ramps and gangways.

6. **Abatement:** If Ferry Operator is denied access to any Landing Slots for a period longer than seven (7) consecutive days due to any cause beyond the control of the Ferry Operator, and a comparable alternative site or interval cannot be provided, the Charges set forth on **Exhibit B** shall be subject to a pro rata abatement.

7. **Requirements of Law:** The Authorization granted hereby requires the Ferry Operator to comply with any and all applicable provisions of federal, state, and local laws, rules and regulations, as well as any rules or regulations promulgated by the Port Authority or the Battery Park City Authority.

8. **Indemnification:** The Ferry Operator hereby agrees to defend, indemnify and hold harmless the Port Authority, the Battery Park City Authority and BBFC and their respective members, directors, officers, officials, agents, employees, consultants, contractors, representatives, successors and assigns (collectively, the "**Indemnitees**"), from and against any and all losses, liabilities, claims, suits, actions, fines, damages, penalties, costs, charges, judgments and expenses, including without limitation reasonable attorney's fees, suffered or incurred by any of the Indemnitees arising from injury during the Term hereof to any person or persons, including death or damage to or loss of property of any nature, arising wholly or in part by any act or omission of the Ferry Operator, or of the contractors, subcontractors, passengers, employees, guests or agents of the Ferry Operator, and also for any matter, act, omission or use arising out of or in connection with the Ferry Operator's acts or omissions under this Authorization occurring on or in proximity to the Facility, including, but not limited to, the Facility, docks, piers, landing barges, quays, gangways, ramps, platforms, bulkheads, buildings or other structures, lands under water, marginal streets, wharves and places.

9. **Sunken or Disabled Craft:** In the event a Vessel operated by or for the Ferry Operator is disabled or is in danger of sinking, or shall sink while located at the Facility, the approaches thereto, or while coming or going from said Facility, or while turning, whether such disaster be partial or total, regardless of the cause thereof, the Ferry Operator will immediately and at its own expense remove the disabled Vessel and leave the Facility and approaches thereto by land and by water free from any wreckage. If the Ferry Operator fails to remove any such obstruction promptly, BBFC may remove it or cause it to be removed at the sole risk and expense of the Ferry Operator.

10. **No Gambling or Illegal Activities:** At no time shall gambling, legal or otherwise, or any illegal activities be permitted on any Vessel operating pursuant to this Authorization.

11. **Queuing and No Obstructions:** The Ferry Operator shall not permit queuing or placement of barriers at the Facility except in such areas and in such a manner as directed by BBFC.

12. **Two-Way Communication System:**

(a) Vessels operated by the Ferry Operator to and from the Facility shall have a two way shore communication system ("***Radio***") capable of communicating with the Facility and other vessels located in the harbor.

(b) In those instances where personnel are stationed at the Facility, the Ferry Operator shall notify said personnel by Radio if any Vessel may be delayed in landing by more than five (5) minutes.

13. **No Waste Material:**

(a) No discharge of any kind, including, but not limited to, garbage, oil, sludge, refuse matter, sewage or waste material shall be thrown, deposited or permitted to fall into the water surrounding the Facility or upon the Facility or approaches to the Facility, site, landing, docks, piers, landing barges, quays, gangways, ramps, platforms, bulkheads, upland area and wharves where Vessels may operate or land or where passengers queue, embark or disembark under the terms of this Authorization.

(b) Storage of any ramps, gear or equipment at the Facility without the prior written consent of BBFC is prohibited.

14. **No Vessel Repairs and No Fueling at Facility:** There shall be no repairing or fueling of Vessels while at the Facility except for emergencies.

15. **Cooperation:**

(a) Cooperation of the Ferry Operator is required with other authorized operators to use the Landing Slots at the Facility and approaches thereto, and the Ferry Operator shall not unreasonably interfere with operations of other authorized operators.

(b) Strict adherence must be maintained to the time limitation schedule provided in Exhibit B for each of the Landing Slots.

16. **Advertising:** The Ferry Operator shall not place any advertisement, notice or sign on any part of the Facility, pier, bulkhead, buildings or other structures and approaches thereto, unless the Ferry Operator shall have received the prior written approval of the Port Authority and BBFC.

17. **Sufficient Personnel:** The Ferry Operator shall have sufficient personnel to immediately and efficiently secure its Vessels to the landing slips, to control its passengers and crowds, to provide for safe embarkation and debarkation to and from the Facility, to direct passengers to and from a safe upland area, to ensure that there is no smoking, no drinking of alcoholic beverages, no eating and no littering or

litter within the vicinity of the Facility, to properly secure and remove gangways and ramps, to open and close gates, and to lock and unlock gates at or near the landing slips.

18. As Is: The Ferry Operator fully understands and agrees that BBFC does not warrant the Facility, landing slips, landing, docks, piers, landing barges, quays, gangways, ramps, platforms, bulkheads, buildings or other structures, upland area, or wharves to be safe for landing or tying up of Vessels or for accepting and discharging passengers, for queuing or for ingress and egress, and BBFC assumes no responsibility for such use of the Facility by the Ferry Operator.

19. Accidents: Notification shall be made to BBFC and the Port Authority, immediately verbally and in writing within twenty-four (24) hours of any accident that occurs on or in proximity to the Facility, which may involve any passenger, crewmember, Facility personnel, Vessel, or any part of the Facility. The Ferry Operator shall exercise diligence in monitoring the area on or in proximity to the Facility to ensure the prevention of any accident.

20. Damage to Facility or Approaches to Facility:

(a) The Ferry Operator shall be responsible for the cost of repair of any damages it causes to the Facility or approaches thereto and shall notify BBFC and the Port Authority immediately verbally and in writing within twenty four (24) hours of the occurrence of such damage.

(b) BBFC may repair or cause to be repaired any such damage at the sole cost and expense of the Ferry Operator, and the Ferry Operator shall pay such costs within thirty (30) days of notice thereof.

21. Closing of Gates and Gangways/Ramps:

(a) At the conclusion of each Landing Slot, all gates, gangways and ramps shall be closed in order to restrict public access thereto.

(b) In the event the Ferry Operator is scheduled for the final Landing Slot of the day, or as otherwise directed by BBFC, the Ferry Operator shall be responsible for closing and securing all gates, gangways and ramps.

(c) The Ferry Operator shall also be responsible for unlocking gates and gangways and ramps as directed by BBFC.

22. Revocation:

(a) BBFC shall have the right to revoke this Authorization for breach by the Ferry Operator of an express provision of this Authorization, provided written notice of such breach is given by BBFC and the Ferry Operator has ten (10) business days from its receipt of such notice to cure the alleged breach before the revocation becomes effective. In the event of a revocation of this Authorization, the Ferry Operator shall be entitled to a pro rata refund of the Charges paid by the Ferry Operator for the month in which the revocation occurs, based on the number of Landing Slots revoked, less any damages to BBFC or the Port Authority as a result of the Ferry Operator's breach of this Authorization.

(b) Consistent with the provisions of Section 6 of this Authorization, specific Landing Slots granted hereunder may be suspended in the event of an emergency as determined by BBFC.

23. No Discrimination:

(a) The Ferry Operator covenants and agrees not to discriminate on the basis of race, creed, color, religion, disability, sex, national origin, age, marital status or sexual orientation in all employment decisions, including, but not limited to, recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, lay off and termination, and all other terms and conditions of employment.

(b) The Ferry Operator further covenants and agrees to state in all solicitations or advertisements for employment placed by or on behalf of the Ferry Operator that all qualified applicants will be afforded equal employment opportunities and receive consideration for employment without regard to race, creed, color, religion, disability, sex, national origin, age, marital status or sexual orientation.

24. Investigation Clause: The parties to this Authorization agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by the Port Authority, or any other governmental agency or authority, relating to or in connection with this Authorization.

25. Survival: Any and all obligations and/or liabilities of the Ferry Operator under this Authorization shall survive the expiration, termination or revocation of this Authorization.

26. Changes; Discontinuance of Landing Slot:

(a) Changes: The Ferry Operator shall give BBFC five (5) days written notification preceding the date upon which Ferry Operator intends to modify (but not discontinue) use of an assigned Landing Slot or add a Landing Slot. Any and all modifications to the Landing Slots and additions of Landing Slots shall be subject to the written approval of BBFC and shall be effectuated by written amendments to Exhibit B.

(b) Discontinuance: Written notice shall be given to BBFC no later than the fifteenth (15th) day of the month preceding the month in which the Ferry Operator intends to discontinue use of an assigned Landing Slot.

(i) Notice received by BBFC subsequent to the fifteenth (15th) day shall not be deemed received until the fifteenth (15th) day of the following month, and the Landing Slot Charges shall not be adjusted until the first (1st) day of the month after such notice is deemed received.

(ii) In the event that the Ferry Operator discontinues use of an assigned Landing Slot, BBFC shall amend Exhibits A, B, and/or C hereto as applicable.

(iii) It is acknowledged that in the event the Ferry Operator discontinues use of an assigned Landing Slot(s), BBFC shall have no obligation to assign it another Landing Slot(s), if one is not available.

(c) Failure to Comply: BBFC may deny the Ferry Operator the right to use Landing Slots if the Ferry Operator fails to comply with its obligations under this Agreement.

27. Deposit:

(a) On or before the execution of this Authorization, the Ferry Operator shall deposit with BBFC the sum of _____ (\$ _____) Dollars, by certified check made payable to BBFC (the "*Deposit*"), to be held by BBFC as a security deposit for losses or damages incurred by it or the Port Authority resulting from the Ferry Operator's acts or omissions hereunder, including, without limitation, for the payment of any Charges not paid by the Ferry Operator when due.

(i) BBFC shall hold the Deposit without liability for interest thereon.

(ii) The Deposit shall be returned within thirty (30) days after the termination or revocation of this Authorization, provided that a determination is made by BBFC that the Ferry Operator has fully and faithfully complied with all of the terms and conditions of this Authorization and that all Charges and other amounts which may become due hereunder have been paid by the Ferry Operator to BBFC or the Port Authority, as the case may be.

(b) In the event ferry service does not commence subsequent to the Start Date through no fault of BBFC, BBFC shall retain the sum of One Thousand (\$1,000.00) Dollars to cover all administrative expenses in issuing this Authorization and shall return the balance of the Deposit to the Ferry Operator.

(c) If any Charges or sums payable to BBFC shall be overdue and unpaid or should BBFC make payments on behalf of the Ferry Operator, or should the Ferry Operator fail to perform any of the terms and conditions set forth in this Authorization, then BBFC may, at its option, apply the Deposit or as much thereof as may be necessary to compensate BBFC for the payment of Charges or other sums due for any loss, damage or expense incurred by BBFC on behalf of the Ferry Operator or as a result of the Ferry Operator's actions hereunder.

(d) In the event this Authorization has not been revoked and has not expired, and the sum of the Deposit is depleted, the Ferry Operator shall restore the original sum of the Deposit within thirty (30) days after receipt of written demand therefor.

28. Abandonment or Failure to Use Landing Slots:

(a) Subject to the force majeure provisions of Section 39 hereof, if the Ferry Operator abandons or fails to use any of its Landing Slots for a period of seven (7) consecutive days, forfeiture of its right to each Landing Slot it abandons or fails to use may occur in the sole discretion of BBFC, unless prior written consent is given by BBFC for such temporary non-use.

(b) Failure to use a Landing Slot more than forty nine percent (49%) of the scheduled time within any two (2) consecutive weeks may result in forfeiture by the Ferry Operator of the right to such Landing Slot in the sole discretion of BBFC, unless prior written consent is given by BBFC for such temporary non-use.

29. Ticketing: The Ferry Operator may not locate any ticketing or other personnel in the Facility without the prior written approval of BBFC. The location of such personnel in the Facility may require a separate fee to be paid by the Ferry Operator.

30. **Layover:** The Ferry Operator may not store or otherwise dock Vessels at the Facility except in emergencies. A Vessel that is disabled but may be towed from the Facility shall not constitute an emergency for the purposes of this Authorization.

31. **Ferry Vessels:** Ferry Operator shall bear all capital, operating and other costs associated with the financing, operation, repair and maintenance of the 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 of the Vessels shall be (a) approved by the United States Coast Guard ("**USCG**") and manned and operated in accordance with a USCG Certificate of Inspection, (b) permitted and/or licensed by applicable permitting or licensing authorities having or claiming jurisdiction to regulate the Ferry Operator's provision of ferry service, and (c) equipped with radar. The Ferry Operator shall at all times employ or require any third party who operates the Vessels on behalf of the Ferry Operator to employ personnel to operate the Vessels who have all licenses and/or documents required by the USCG.

32. **National Transit Database:** The Ferry Operator, if requested by the Port Authority, shall prepare reports as required by the National Transit Database, formerly Section 15 of the Urban Mass Transportation Act of 1964, as amended, in a form acceptable to the Federal Transit Administration.

33. **Books and Records:**

(a) Retention of books and records related to this Authorization must be maintained and kept available by the Ferry Operator for a period of six (6) years after the end of the Term and the Ferry Operator shall permit appropriate representatives of BBFC and/or the Port Authority, at all reasonable times, during regular business hours, upon not less than two (2) days prior written notice and at the Port Authority's sole cost and expense, to examine and audit such books and records.

(b) On the first business day of each month during the Term, the Ferry Operator shall provide BBFC and the Port Authority with a written statement detailing the daily passenger totals to and from the Facility and a daily log of actual arrival and departure times at the Facility for the preceding month. More frequent and detailed information on passenger totals and Vessel movements must be provided upon request.

(c) The Port Authority shall have the right, at its cost and expense, to inspect, copy, examine and take notes from the logs maintained by the Ferry Operator regarding the operations of the Vessels in connection with the ferry service provided hereunder.

34. **Contingency Back-Up Plan:** The Ferry Operator shall have in place a contingency back-up plan to provide for continuity of ferry service (the "**Plan**") in instances when the Ferry Operator is not able to operate ferry service to the Facility. A written copy of the Plan must be provided to at least ten (10) days prior to the Start Date and at any time thereafter that material modifications are made to the Plan.

35. **Insurance:** From the time of its first activities at the Facility and during the Term of this Authorization, the Ferry Operator, at its sole cost and expense, shall carry, or cause to be carried, the policies of insurance referenced in Exhibit D, evidence of which must be provided upon request to BBFC or the Port Authority. Certificates of Insurance must be provided and approved prior to commencement of ferry service to the Facility by BBFC under this Authorization.

36. **Security:** The Ferry Operator must comply with all federal, state, city and other governmental agencies' security plans, including without limitation, the requirements of the Maritime Transportation Act of 2002. To the extent permitted by law, copies of all written security compliance plans, if any, will be given to BBFC and the Port Authority upon request. In addition, the names and telephone numbers of at least two (2) security personnel retained by the Ferry Operator must be given to the Port Authority and BBFC, who shall be available twenty four (24) hours per day. None of the aforementioned requirements shall relieve the Ferry Operator of its responsibility for taking appropriate steps to insure the security and safety of its Vessels, passengers, and crew.

37. **Force Majeure:** Performance hereunder shall be excused and neither party shall be responsible to the other in the event of delays beyond the reasonable control of either party that have the effect of delaying such party's performance of its obligations under this Authorization and that are due to strikes, lockouts, acts of God, terrorist acts, riots and other civil commotions, severe inclement weather conditions, fire and unavoidable casualties or similar causes and provided that such party has notified other party of same not later than ten (10) days after such party knows or has reason to know of such an event.

38. **Notices:** All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally, by guaranteed overnight delivery service, or mailed (prepaid certified mail with return receipt requested) as follows:

If to BBFC: Billybey Ferry Company, LLC
c/o Wachtel & Masyr, LLP
110 East 59th Street
New York, New York 10022
Attn: William Wachtel

and to: The Port Authority of NY & NJ
One Riverfront Plaza, 9th Floor
Newark, New Jersey 07102
Attn: Patrick Flinn

If to the Ferry Operator:

39. **Applicable Law:** This Authorization shall be deemed to be executed in the City of New York, State of New York and shall be governed by and construed in accordance with the laws of the State of New York without regard to conflicts of law provisions.

40. **Binding Effect; Benefit:** This Authorization shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

41. **Section Headings:** The section headings contained in this Authorization are inserted for reference purposes only and shall not affect the meaning and interpretation of this Authorization.

42. **Counterparts; Facsimile:** This Authorization may be executed in counterparts, each of which shall be deemed to be a duplicate original, and all of which together shall be deemed to be one and

the same instrument. Facsimile signatures of the undersigned parties will have the same force and effect as original signatures.

43. Assignment: This Authorization shall be assignable by BBFC with Port Authority approval, and shall be transferable by assignment or operation of law to BBFC successors. This Authorization shall not be assignable and shall not be assigned by the Ferry Operator without prior written consent of the Port Authority and BBFC, and shall not be transferable by assignment or operation of law to the Ferry Operator successors.

44. Severability: If any part of this Authorization is found invalid or unenforceable, that part will be enforced to the maximum extent permitted by law and the remainder of this Authorization will remain in full force and effect.

45. Not a Lease: This agreement is intended to be an authorization to operate passenger ferry service to and from the Facility and not a lease for any purpose. No ownership, leasehold or other property interest shall vest in this agreement.

46. Waiver Of Jury Trial: Both BBFC and the Ferry Operator hereby mutually waive any and all right that either party may have to request a jury trial in any proceeding at law or in equity in any court of competent jurisdiction arising out of or in connection to this Authorization.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Battery Park City Ferry Terminal Landing Slot Authorization and Rules and Regulations on the date first above written.

BILLYBEY FERRY COMPANY, LLC

Date: _____

By: _____

Name:
Title:

Date: _____

By: _____

Name:
Title:

EXHIBIT A
LANDING SLOTS

EXHIBIT B

LANDING SLOT SCHEDULE

Route:

The Ferry Operator:

Service:

Date:

Charges for:

DAYS	SCHEDULED ARRIVAL/ DEPARTURE	DAILY CHARGE	DAYS MONTH	PER	MONTHLY CHARGE

Total: \$

EXHIBIT C
RATE TABLE

Commuter Ferry Operators:

Peak Hours (6:00 a.m. to 10:00 a.m. and 4:00 p.m. to 8:00 p.m.)
\$25.00 per hour per vessel
Off-Peak Hours
\$10.00 per hour per vessel

Excursion and Tour Operators and Private Charters:

\$5.00 per foot (length of vessel)

Deposit Requirements (for Commuter, Excursion and Tour Operators)

Three months

Late Charges - If Ferry Operator shall fail to pay any amount required under this Agreement when due to BBFC, BBFC may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (herein below described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Each late charge shall be payable immediately upon demand made at any time therefore by BBFC. No acceptance by BBFC of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of BBFC to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Nothing in this Section is intended, or shall be deemed, to, affect, alter, modify or diminish in any way: (i) any rights of BBFC under this Agreement, or (ii) any obligations of Ferry Operator under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

All payments under this agreement should be sent to BBFC as follows:

Billybey Ferry Company, LLC
c/o Wachtel & Masyr, LLP
110 East 59th Street
New York, New York 10022

Or via wire transfer to:

Name of Bank - JP Morgan Chase Bank
Bank ABA Number - 021000021
Account Number -

EXHIBIT D

Additional Operating Rules for the Battery Park City Ferry Terminal

1. **No Solicitation:** Operators and/or their agents are expressly forbidden to use any voice or power operated devices in solicitation of business or for entertainment purposes at the Battery Park City Ferry Terminal ("Terminal") or in its immediate vicinity.
2. **Ferry Vessel Emission Compliance:** The Port Authority may establish a "certification" program to ensure that all ferries using the Terminal are continuously in compliance with federal and New York State air quality guidelines and standards, which shall become a Terminal use requirement.
3. **Terminal Route Restrictions:**
 - (a) Operators shall ensure that vessels using the Terminal will maintain inbound and outbound routes that are at least 1,000 feet from the pier head line until south of the Battery Park City's northern end.
 - (b) Operators shall not deviate from the stated Terminal route restrictions unless required by navigational rules, approaching or passing vessels or special Coast Guard regulations, during specifically announced periods, or abnormal or emergency conditions in the harbor.
 - (c) Operators with consistent violations of the stated Terminal route restrictions may be subject to fines, increased landing fees and/or termination of landing privileges. To ensure operator compliance with the Terminal route restrictions, the Port Authority may establish an ongoing monitoring program. Operators will be required to participate.
4. **Insurance Requirements:**
 - (a) Commercial General Liability Insurance with minimum limits of \$10 million per occurrence for bodily injury and property damage liability including:
 - (1) The inclusion of The Port Authority of NY & NJ / PATH, Battery Park City, Battery Park City Parks Conservancy Corporation and Billybey Ferry Company as Additional Insured, including but not limited to premise-operations and completed operations.
 - (2) The Port Authority Immunity Clause.
 - (3) Cross-Liability Clause.
 - (b) \$50 million Protection and Indemnity Insurance.
 - (c) U.S. Longshoremen & Harbor Worker's Compensation Act Coverage Endorsement.
 - (d) All insurance coverage and policies required may be reviewed for adequacy of terms, conditions and limits of coverage at any time and from time to time.

- (e) Any certification required shall stipulate that the policies may not be canceled, terminated or modified without thirty (30) day's advance written notice to each of the Additional Insureds.

5. **INDEMNIFICATION:** Operator agrees by using Terminal to defend, indemnify and hold harmless the Port Authority, Battery Park City Authority and BBFC against all loss, claims, suits and damages arising out of or in connection with its use of the Terminal facility, including reasonable counsel costs and fees.

EXHIBIT E

VESSELS

Attachment E

SECTION D: STANDARD CONTRACT TERMS AND CONDITIONS

	<u>PAGE</u>
PART I GENERAL DEFINITIONS.....	D-3
PART II GENERAL PROVISIONS.....	D-6
1. Rules and Regulations of the Port Authority.....	D-6
2. Contractor Not an Agent.....	D-6
3. Contractor's Warranties.....	D-6
4. Personal Non-Liability.....	D-8
5. Equal Employment Opportunity, Affirmative Action, Non-Discrimination...	D-8
6. Rights and Remedies of the Port Authority.....	D-8
7. Rights and Remedies of the Contractor.....	D-9
8. Submission to Jurisdiction.....	D-9
9. Harmony.....	D-10
10. Claims of Third Persons.....	D-11
11. No Third Party Rights.....	D-11
12. Provisions of Law Deemed Inserted.....	D-11
13. Costs Assumed By The Contractor.....	D-11
14. Default, Revocation or Suspension of Contract.....	D-12
15. Sales or Compensating Use Taxes.....	D-16
16. No Estoppel or Waiver.....	D-16
17. Records and Reports.....	D-17
18. General Obligations.....	D-18
19. Subcontracting.....	D-20
20. Indemnification and Risks Assumed by the Contractor.....	D-20

21.	Approval of Methods.....	D-22
22.	Safety and Cleanliness.....	D-22
23.	Accident Reports.....	D-22
24.	Trash Removal.....	D-22
25.	Lost and Found Property.....	D-23
26.	Property of Contractor.....	D-23
27.	Modification of Contract.....	D-23
28.	Invalid Clauses.....	D-23
29.	Approval of Materials, Supplies and Equipment.....	D-24
30.	Intellectual Property.....	D-24
31A.	High Security Area.....	D-24
31B.	Notification of Security Requirements.....	D-25
32.	Construction in Progress.....	D-26
33.	Permit-Required Confined Space Work.....	D-26
34.	Signs.....	D-27
35.	Vending Machines, Food Preparation.....	D-27
36.	Non-Publication.....	D-27
PART III CONTRACTOR'S INTEGRITY PROVISIONS.....		D-28
1.	Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification, and Disclosure of Other Information.....	D-28
2.	Non-Collusive Bidding and Code of Ethics Certification, Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent or Other Fees.....	D-28
3.	Bidder Eligibility For Award of Contracts - Determination by an Agency of the State of New York or New Jersey Concerning Eligibility to Receive Public Contracts.....	D-30
4.	No Gifts, Gratuities, Offers of Employment, Etc.....	D-31
5.	Conflict of Interest.....	D-31
6.	Definitions.....	D-32

STANDARD CONTRACT TERMS AND CONDITIONS

PART I GENERAL DEFINITIONS

To avoid undue repetition, the following terms, as used in this Agreement, shall be construed as follows:

Authority or Port Authority - shall mean the Port Authority of New York and New Jersey.

Contract, Document or Agreement - shall mean the "STANDARD INFORMATION FOR BIDDERS" AND "SIGNATURE SHEETS," "CONTRACT SPECIFIC INFORMATION FOR BIDDERS," "CONTRACT DESCRIPTION, SPECIFICATIONS, AND PRICING SHEETS," "STANDARD CONTRACT TERMS AND CONDITIONS," and, if included, attachments, endorsements, schedules, exhibits, or drawings, the Authority's acceptance and any written addenda issued over the name of the Authority's Manager, Purchasing Services Division.

Days or Calendar Days - shall mean consecutive calendar days, Saturdays, Sundays, and holidays, included.

Week - unless otherwise specified, shall mean seven (7) consecutive calendar days, Saturdays, Sundays, and holidays.

Month - unless otherwise specified, shall mean a calendar month.

Director - shall mean the Director of the Department which operates the facility of the Port Authority at which the services hereunder are to be performed, for the time being, or his/her successor in duties for the purpose of this Contract, acting personally or through one of his/her authorized representatives for the purpose of this Contract.

Manager - shall mean the Manager of the Facility for the time being or his successor in duties for the purpose of this Contract, acting personally or through his duly authorized representative for the purpose of this Contract.

No person shall be deemed a representative of the Director or Manager except to the extent specifically authorized in an express written notice to the Contractor signed by the Director or Manager, as the case may be. Further, no person shall be deemed a successor in duties of the Director unless the Contractor is so notified in writing signed by the Authority's Manager, Purchasing Services Division. No person shall be deemed a successor in duties of the Manager unless the Contractor is so notified in a writing signed by the Director.

Minority Business Enterprise (MBE) - shall mean a business entity which is at least 51% owned and controlled by one or more members of one or more minority groups, or, in the case of a publicly held corporation, at least 51% of the stock of which is owned by one or more minority groups, and whose management and daily business operations are controlled by one or more such individuals who are citizens or permanent resident aliens.

"Minority Group" means any of the following racial or ethnic groups:

- (a) Black persons having origins in any of the Black African racial groups not of Hispanic origin;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race;
- (c) Asian and Pacific Islander persons having origins in any of the original peoples of the Far East, Southeast Asia, The Indian Subcontinent, or the Pacific Islands;
- (d) Native American or Alaskan native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

Site of the Work - or words of similar import shall mean the Facility and all buildings and properties associated therewith as described in this Contract.

Small Business Enterprise (SBE) - The criteria for a Small Business Enterprise are:

- o The principal place of business must be located in New York or New Jersey;
- o The firm must have been in business for at least three years with activity;
- o Average gross income limitations by industry as established by the Port Authority.

Subcontractor - shall mean anyone who performs work (other than or in addition to the furnishing of materials, plant or equipment) in connection with the services to be provided hereunder, directly or indirectly for or on behalf of the Contractor (and whether or not in privity of contract with the Contractor), but shall not include any person who furnished merely his own personal labor or his own personal services. "SubContractor", however, shall exclude the Contractor or any subsidiary or parent of the Contractor or any person, firm or corporation which has a substantial interest in the Contractor or in which the Contractor or the parent or the subsidiary of the Contractor, or an officer or principal of the Contractor or of the parent of the subsidiary of the Contractor has a substantial interest, provided, however, that for the purpose of the clause hereof entitled "Assignments and Subcontracts" the exclusion in this paragraph shall not apply to anyone but the Contractor itself.

Women-Owned Business Enterprise (WBE) - shall mean a business enterprise which is at least 51% owned by one or more women, or, in the case of a publicly held corporation, at least 51% of the stock of which is owned by one or more women and whose management and daily business operations are controlled by one or more women who are citizens or permanent or resident aliens.

Work - shall mean all services, equipment and materials (including materials and equipment, if any, furnished by the Authority) and other facilities and all other things necessary or proper for, or incidental to the services to be performed or goods to be furnished in connection with the service to be provided hereunder.

PART II GENERAL PROVISIONS

1. Facility Rules and Regulations of The Port Authority

- a. The Contractor shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the facility Rules and Regulations of the Port Authority now in effect, and such further reasonable Rules and Regulations which may from time to time during the term of this Agreement be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance and efficient operation of the Facility. The Port Authority agrees that, except in case of emergency, it shall give notice to the Contractor of every Rule and Regulation hereafter adopted by it at least five days before the Contractor shall be required to comply therewith.
- b. A copy of the facility Rules and Regulations of the Port Authority shall be available for review by the Contractor at the Office of the Secretary of the Port Authority.

2. Contractor Not An Agent

This Agreement does not constitute the Contractor the agent or representative of the Port Authority for any purpose whatsoever except as may be specifically provided in this Agreement. It is hereby specifically acknowledged and understood that the Contractor, in performing its services hereunder, is and shall be at all times an independent Contractor and the officers, agents and employees of the Contractor shall not be or be deemed to be agents, servants or employees of the Port Authority.

3. Contractor's Warranties

The Contractor represents and warrants:

- a. That it is financially solvent, that it is experienced in and competent to perform the requirements of this Contract, that the facts stated or shown in any papers submitted or referred to in connection with its Proposal are true, and, if the Contractor be a corporation, that it is authorized to perform this Contract;
- b. That it has carefully examined and analyzed the provisions and requirements of this Contract, and that from its own investigations it has satisfied itself as to the nature of all things needed for the performance of this Contract, the general and local conditions and all other matters which in any way affect this Contract or its performance, and that the time available to it for such examination, analysis, inspection and investigation was adequate;

- c. That the Contract is feasible of performance in accordance with all its provisions and requirements and that it can and will perform it in strict accordance with such provisions and requirements;
- d. That no Commissioner, officer, agent or employee of the Port Authority is personally interested directly or indirectly in this Contract or the compensation to be paid hereunder;
- e. That, except only for those representations, statements or promises expressly contained in this Contract, no representation, statement or promise, oral or in writing, of any kind whatsoever by the Port Authority, its Commissioners, officers, agents, employees or consultants has induced the Contractor to enter into this Contract or has been relied upon by the Contractor, including any with reference to: (1) the meaning, correctness, suitability, or completeness of any provisions or requirements of this Contract; (2) the nature, quantity, quality or size of the materials, equipment, labor and other facilities needed for the performance of this Contract; (3) the general or local conditions which may in any way affect this Contract or its performance; (4) the price of the Contract; or (5) any other matters, whether similar to or different from those referred to in (1) through (4) immediately above, affecting or having any connection with this Contract, the bidding thereon, any discussions thereof, the performance thereof or those employed therein or connected or concerned therewith.

Moreover, the Contractor accepts the conditions at the Site of the Work as they may eventually be found to exist and warrants and represents that it can and will perform the Contract under such conditions and that all materials, equipment, labor and other facilities required because of any unforeseen conditions (physical or otherwise) shall be wholly at its own cost and expense, anything in this Contract to the contrary notwithstanding.

Nothing in the Specifications or any other part of the Contract is intended as or shall constitute a representation by the Port Authority as to the feasibility of performance of this Contract or any part thereof.

The Contractor further represents and warrants that it was given ample opportunity and time and by means of this paragraph was requested by the Port Authority to review thoroughly all documents forming this Contract prior to opening of Proposals on this Contract in order that it might request inclusion in this Contract of any statement, representation, promise or provision which it desired or on which it wished to place reliance; that it did so review said documents, that either every such statement, representation, promise or provision has been included in this Contract or else, if omitted, that it expressly relinquishes the benefit of any such omitted

statement, representation, promise or provision and is willing to perform this Contract without claiming reliance thereon or making any other claim on account of such omission.

The Contractor further recognizes that the provisions of this numbered clause (though not only such provisions) are essential to the Port Authority's consent to enter into this Contract and that without such provisions, the Authority would not have entered into this Contract.

4. Personal Non-Liability

Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Contractor with any liability, or held personally liable to the Contractor under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach, thereof.

5. Equal Employment Opportunity, Affirmative Action, Non-Discrimination

- a. The Contractor is advised to ascertain and comply with all applicable federal, State and local statutes, ordinances, rules and regulations and, federal Executive Orders, pertaining to equal employment opportunity, affirmative action, and non-discrimination in employment.
- b. Without limiting the generality of any other term or provision of this Contract, in the event of the Contractor's non-compliance with the equal opportunity and non-discrimination clause of this Contract, or with any of such statutes, ordinances, rules, regulations or Orders, this Contract may be cancelled, terminated or suspended in whole or in part.

6. Rights and Remedies of the Port Authority

The Port Authority shall have the following rights in the event the Contractor is deemed guilty of a breach of any term whatsoever of this Contract:

- a. The right to take over and complete the Work or any part thereof as agent for and at the expense of the Contractor, either directly or through others.
- b. The right to cancel this Contract as to any or all of the Work yet to be performed.
- c. The right to specific performance, an injunction or any appropriate equitable remedy.
- d. The right to money damages.

For the purpose of this Contract, breach shall include but not be limited to the following, whether or not the time has yet arrived for performance of an obligation under this Contract: a statement by the Contractor to any representative of the Port Authority indicating that the Contractor cannot or will not perform any one or more of its obligations under this Contract; any act or omission of the Contractor or any other occurrence which makes it improbable at the time that it will be able to perform any one or more of its obligations under this Contract; any suspension of or failure to proceed with any part of the Work by the Contractor which makes it improbable at the time that it will be able to perform any one or more of its obligations under this Contract.

The enumeration in this numbered clause or elsewhere in this Contract of specific rights and remedies of the Port Authority shall not be deemed to limit any other rights or remedies which the Authority would have in the absence of such enumeration; and no exercise by the Authority of any right or remedy shall operate as a waiver of any other of its rights or remedies not inconsistent therewith or to stop it from exercising such other rights or remedies.

7. Rights and Remedies of the Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract which may be committed by the Port Authority, the Contractor expressly agrees that no default, act or omission of the Port Authority shall constitute a material breach of this Contract, entitling the Contractor to cancel or rescind this Contract or to suspend or abandon performance.

8. Submission To Jurisdiction

The Contractor hereby irrevocably submits itself to the jurisdiction of the Courts of the State of New York and New Jersey, in regard to any controversy arising out of, connected with, or in any way concerning this Contract.

The Contractor agrees that the service of process on the Contractor in relation to such jurisdiction may be made, at the option of the Port Authority, either by registered or certified mail addressed to it at the address of the Contractor indicated on the signature sheet, or by actual personal delivery to the Contractor, if the Contractor is an individual, to any partner if the Contractor be a partnership or to any officer, director or managing or general agent if the Contractor be a corporation.

Such service shall be deemed to be sufficient when jurisdiction would not lie because of the lack of basis to serve process in the manner otherwise provided by law. In any case, however, process may be served as stated above whether or not it might otherwise have been served in a different manner.

9. Harmony

- a. The Contractor shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Port Authority or with the operations of lessees, licensees or other users of the Facility or with the operations of the Contractor under this Contract.

The Contractor shall immediately give notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Contractor shall use its best efforts to resolve any such complaint, trouble, dispute or controversy. If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against the Contractor at the Facility or against any operations of the Contractor under this Contract, whether or not caused by the employees of the Contractor, and if any of the foregoing, in the opinion of the Port Authority, results or is likely to result in any curtailment or diminution of the services to be performed hereunder or to interfere with or affect the operations of the Port Authority, or to interfere with or affect the operations of lessees, licensees, or other users of the Facility or in the event of any other cessation or stoppage of operations by the Contractor hereunder for any reason whatsoever, the Port Authority shall have the right at any time during the continuance thereof to suspend the operations of the Contractor under this Contract, and during the period of the suspension the Contractor shall not perform its services hereunder and the Port Authority shall have the right during said period to itself or by any third person or persons selected by it to perform said services of the Contractor using the equipment which is used by the Contractor in its operations hereunder as the Port Authority deems necessary and without cost to the Port Authority. During such time of suspension, the Contractor shall not be entitled to any compensation. Any flat fees, including management fees, shall be prorated. Prior to the exercise of such right by the Port Authority, it shall give the Contractor notice thereof, which notice may be oral. No exercise by the Port Authority of the rights granted to it in the above subparagraph shall be or be deemed to be a waiver of any rights of termination or revocation contained in this Contract or a waiver of any rights or remedies which may be available to the Port Authority under this Contract or otherwise.

- b. During the time that the Contractor is performing the contract, other persons may be engaged in other operations on or about the worksite including Facility operations, pedestrian, bus and vehicular traffic and other Contractors performing at the worksite, all of which shall remain uninterrupted.

The Contractor shall so plan and conduct his operations as to work in harmony with others engaged at the site and not to delay, endanger or interfere with the operation of others (whether or not specifically mentioned above), all to the best interests of the Port Authority and the public as may be directed by the Port Authority.

10. Claims of Third Persons

The Contractor undertakes to pay all claims lawfully made against it by subcontractors, suppliers and workers, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of this Contract and to cause all subcontractors to pay all such claims lawfully made against them.

11. No Third Party Rights

Nothing contained in this Contract is intended for the benefit of third persons, except to the extent that the Contract specifically provides otherwise by use of the words "benefit" or "direct right of action."

12. Provisions of Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included therein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

13. Costs Assumed By The Contractor

It is expressly understood and agreed that all costs of the Contractor of whatever kind or nature and whether imposed directly upon the Contractor under the terms and provisions hereof or in any other manner whatsoever because of the requirements of the operation of the service or otherwise under this Agreement shall be borne by the Contractor or without compensation or reimbursement from the Port Authority, except as specifically set forth in this Agreement. The entire and complete cost and expense of the Contractor's services and operations hereunder shall be borne solely by the Contractor and under no circumstances shall the Port Authority be liable to any third party (including the Contractor's employees) for any such costs and expenses incurred by the Contractor and under no circumstances shall the Port Authority be liable to the Contractor for the same, except as specifically set forth in this Section.

14. Default, Revocation or Suspension of Contract

a. If one or more of the following events shall occur:

1. If fire or other cause shall destroy all or a substantial part of the Facility.
2. If any governmental agency shall condemn or take a temporary or permanent interest in all or a substantial part of the Facility, or all of a part of the Port Authority's interest herein;

then upon the occurrence of such event or at any time thereafter during the continuance thereof, the Port Authority shall have the right on twenty-four (24) hours written notice to the Contractor to revoke this Contract, such revocation to be effective upon the date and time specified in such notice.

In such event this Contract shall cease and expire on the effective date of revocation as if said date were the date of the expiration of this Contract. Such revocation shall not, however, relieve the Contractor of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

b. If one or more of the following events shall occur:

1. The Contractor shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property; or
2. By order or decree of a court the Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors, or, if the Contractor is a corporation, by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or
3. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Contractor and shall not be dismissed within thirty (30) days after the filing thereof; or

4. The interest of the Contractor under this Contract shall be transferred to, passed to or devolve upon, by operation of law or otherwise, any other person, firm or corporation, or
5. The Contractor, if a corporation, shall, without the prior written approval of the Port Authority, become a surviving or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or
6. If the Contractor is a partnership, and the said partnership shall be dissolved as the result of any act or omission of its copartners or any of them, or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or
7. By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Contractor and such possession or control of all or substantially all of the property of the Contractor and shall continue in effect for a period of fifteen (15) days;

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Port Authority shall have the right upon five (5) days notice to the Contractor to terminate this Contract and the rights of the Contractor hereunder; termination to be effective upon the date and time specified in such notice as if said date were the date of the expiration of this Contract. Termination shall not relieve the Contractor of any liabilities or obligations hereunder which have accrued on or prior to the effective date of termination.

c. If any of the following shall occur:

1. The Contractor shall cease, abandon any part of the service, desert, stop or discontinue its services in the premises for any reason whatsoever and regardless of the fault of the Contractor; or
2. The Contractor shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Contract on its part to be kept, performed or observed, within five (5) days after receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligations requires activity over a greater period of time, and the Contractor shall have commenced to perform whatever may be required for fulfillment within five (5) days after receipt of notice and continues such performance without interruption except for causes beyond its control);

then upon the occurrence of any such event or during the continuance thereof, the Port Authority shall have the right on twenty four (24) hours notice to the Contractor to terminate this Contract and the rights of the Contractor hereunder, termination to be effective upon the date and time specified in such notice. Termination shall not relieve the Contractor of any liabilities which shall have accrued on or prior to the effective date of termination.

- d. If any of the events enumerated in this Section shall occur prior to commencement date of this Contract the Port Authority upon the occurrence of any such event or any time thereafter during the continuance thereof by twenty-four (24) hours notice may terminate or suspend this Contract and the rights of the Contractor hereunder, such termination or suspension to be effective upon the date specified in such notice.
- e. No payment by the Port Authority of any monies to the Contractor for any period or periods after default of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Contractor and no act or thing done or omitted to be done by the Port Authority shall be deemed to be a waiver of the right of the Port Authority to terminate this Contract or of any other right or remedies to which the Port Authority may be entitled because of any breach thereof. No waiver by the Port Authority of any default on the part of the Contractor in the performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Contractor shall be or be construed to be a waiver by the Port Authority of any other subsequent default in the performance of any of the said terms, covenants and conditions.
- f. In addition to all other rights of revocation or termination hereunder and notwithstanding any other provision of this Contract the Port Authority may terminate this Contract and the rights of the Contractor hereunder without cause at any time upon five (5) days written notice to the Contractor and in such event this Contract shall cease and expire on the date set forth in the notice of termination as fully and completely as though such dates were the original expiration date hereof and if such effective date of termination is other than the last day of the month, the amount of the compensation due to the Contractor from the Port Authority shall be prorated when applicable on a daily basis. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed but no allowance shall be made for anticipated profits.
- g. Any right of termination contained in this paragraph, shall be in addition to and not in lieu of any and all rights and remedies that the Port Authority shall have at law or in equity consequent upon the Contractor's breach of this Contract and shall be without prejudice to any and all such other rights and remedies. It is hereby specifically agreed and understood that the exercise by the

Port Authority of any right of termination set forth in this paragraph shall not be or be deemed to be an exercise by the Port Authority of an election of remedies so as to preclude the Port Authority from any right to money damages it may have for the period prior to the effective date of termination to the original expiration date of the Contract, and this provision shall be deemed to survive the termination of this contract as aforesaid.

- h. If (1) the Contractor fails to perform any of its obligations under this Contract or any other agreement between the Port Authority and the Contractor (including its obligation to the Port Authority to pay any claim lawfully made against it by any supplier, subcontractor or worker or other person which arises out of or in connection with the performance of this Contract or any other agreement with the Port Authority) or (2) any claim (just or unjust) which arises out of or in connection with this Contract or any other agreement between the Port Authority and the Contractor is made against the Port Authority or (3) any subcontractor under this Contract or any other agreement between the Port Authority and the Contractor fails to pay any claims lawfully made against it by any supplier, subcontractor, worker or other third person which arises out of or in connection with this Contract or any other agreement between the Port Authority and the Contractor or if in the opinion of the Port Authority any of the aforesaid contingencies is likely to arise, then the Port Authority shall have the right, in its discretion, to withhold out of any payment (final or otherwise) such sums as the Port Authority may deem ample to protect it against delay or loss or to assure the payment of just claims of third persons, and to apply such sums in such manner as the Port Authority may deem proper to secure such protection or satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Port Authority to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of such payment, shall not be deemed to indicate that the Port Authority does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Port Authority to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such rights by the Port Authority shall create any obligation of any kind to such supplier, subcontractors, worker or other third persons. If, however, the payment of any amount due the Contractor shall be improperly delayed, the Port Authority shall pay the Contractor interest thereon at the rate of 6% per annum for the period of the delay, it being agreed that such interest shall be in lieu of and in liquidation of any damages to the Contractor because of such delay.
- i. If The Port Authority has paid any sum or has incurred any obligation or expense which the Contractor has agreed to pay or reimburse the Port Authority, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligations or

expense by reason of the failure, neglect or refusal of the Contractor to perform or fulfill any one or more of the conditions, covenants, or agreements contained in this contract, or as a result of an act of omission of the Contractor contrary to the said conditions, covenants and agreements, the Contractor shall pay to the Port Authority the sum or sums so paid or expense so incurred, including all interests, costs and damages, promptly upon the receipt of the Port Authority's statement therefore. The Port Authority may, however, in its discretion, elect to deduct said sum or sums from any payment payable by it to the Contractor.

- j. If the Port Authority pays any installment to the Contractor without reducing said installment as provided in this Contract, it may reduce any succeeding installment by the proper amount, or it may bill the Contractor for the amount by which the installment paid should have been reduced and the Contractor shall pay to the Port Authority any such amount promptly upon receipt of the Port Authority's statement therefore.
- k. The Port Authority shall also have the rights set forth above in the event the Contractor shall become insolvent or bankrupt or if his affairs are placed in the hands of a receiver, trustee or assignee for the benefit of creditors.

15. Sales or Compensating Use Taxes

Sales to the Port Authority are currently exempt from New York and New Jersey State and local sales and compensating use taxes and generally from federal taxation. The Contractor certifies that there are no such taxes included in the prices for this Contract. The Contractor shall retain a copy of this Contract to substantiate the exempt sale.

The compensation set forth in this Agreement is the complete compensation to the Contractor, and the Port Authority will not separately reimburse the Contractor for any taxes unless specifically set forth in this Agreement.

16. No Estoppel or Waiver

The Port Authority shall not be precluded or estopped by any payment, final or otherwise, issued or made under this Contract, from showing at any time the true amount and character of the services performed, or from showing that any such payment is incorrect or was improperly issued or made; and the Port Authority shall not be precluded or estopped, notwithstanding any such payment, from recovering from the Contractor any damages which it may sustain by reason of any failure on its part to comply strictly with this Contract, and any moneys which may be paid to it or for its account in excess of those to which it is lawfully entitled.

No cancellation, rescission or annulment hereof, in whole or as to any part of the services to be provided hereunder, or because of any breach

hereof, shall be deemed a waiver of any money damages to which the Port Authority may be entitled because of such breach. Moreover, no waiver by the Authority of any breach of this Contract shall be deemed to be a waiver of any other or any subsequent breach.

17. Records and Reports

The contractor shall set up, keep and maintain in effect in accordance with accepted accounting practice during the term of this Agreement and any extensions thereof and for three years after the expiration, termination or revocation thereof, records, payroll records and books of account (including records of original entry and daily forms) recording all transactions of the Contractor, at, through or in any way connected with or related to the operations of the Contractor hereunder, including but not limited to all matters relating to the charges payable to the Contractor hereunder and such additional information as the Port Authority may from time to time and at any time require, and also including, if appropriate, recording the actual number of hours of service provided under the Contract, and keeping separate records thereof which records and books of account shall be kept at all times within the Port District. The Contractor shall permit in ordinary business hours during the term of this Agreement including any extensions thereof and for three years thereafter the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any records and books of account of any company which is owned or controlled by the Contractor, or which owns or controls the Contractor if said company performs services similar to those performed by the Contractor anywhere in the Port District. However, if within the aforesaid three year period the Port Authority has notified the Contractor in writing of a pending claim by the Port Authority under or in connection with this Contract to which any of the aforesaid records and documents of the Contractor or of its subcontractors relate either directly or indirectly, then the period of such right of access shall be extended to the expiration of six years from the date of final payment with respect to the records and documents involved.

The Contractor shall, at its own expense, install, maintain and use such equipment and devices for recording the labor hours of the service as shall be appropriate to its business and necessary or desirable to keep accurate records of the same and as the general manager or the Facility Manager may from time to time require, and the Contractor shall at all reasonable times allow inspection by the agents and employees of the Port Authority of all such equipment or devices.

- a. The Contractor hereby further agrees to furnish to the Port Authority from time to time such written reports in connection with its operations hereunder as the Port Authority may deem necessary or desirable. The format of all forms, schedules and reports furnished by the Contractor to the Port Authority shall be subject to the continuing approval of the Port Authority.

- b. No provision in this Contract giving the Port Authority a right of access to records and documents is intended to impair or affect any right of access to records and documents which they would have in the absence of such provision. Additional record keeping may be required under other sections of this Contract.

18. General Obligations

- a. Except where expressly required or permitted herein to be oral, all notices, requests, consents and approvals required to be given to or by either party shall be in writing and all such notices, requests, consents and approvals shall be personally delivered to the other party during regular business hours or forwarded to such party by United States certified mail, return receipt requested, addressed to the other party at its address hereinbefore or hereafter provided. Until further notice the Contractor hereby designates the address shown on the bottom of the Contractors Signature Sheet as their address to which such notices, requests, consents, or approvals may be forwarded. All notices, requests, consents, or approvals of the Contractor shall be forwarded to the Manager at the Facility.
- b. The Contractor shall comply with the provisions of all present and future federal, state and municipal laws, rules, regulations, requirements, ordinances, orders and directions which pertain to its operations under this Contract and which affect the Contract or the performance thereof and those engaged therein as if the said Contract were being performed for a private corporation, except where stricter requirements are contained in the Contract in which case the Contract shall control. The Contractor shall procure for itself all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Contractor's operations hereunder which may be necessary for the Contractor's operations. The Contractor's obligation to comply with governmental requirements are not to be construed as a submission by the Port Authority to the application to itself of such requirements.
- c. The Contractor shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed on its property or operations hereunder or income therefrom, and shall make all applications, reports and returns required in connection therewith.
- d. The Contractor shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, standard orders and directions of the American Insurance Association, the Insurance Services Office, National Fire Protection Association, and any other body or organization exercising similar functions which may pertain or apply to the Contractor's operations hereunder.

The Contractor shall not do or permit to be done any act which:

1. will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or
 2. will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or
 3. in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Contract, or
 4. may cause or produce in the premises, or upon the Facility any unusual, noxious or objectionable smoke, gases, vapors, odors or
 5. may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or
 6. shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.
- e. If by reason of the Contractor's failure to comply with the provisions of this Section and provided the Port Authority has given the Contractor five (5) days written notice of its failure and the Contractor shall not have cured said failure within said five (5) days, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Contractor shall on demand pay the Port Authority that part of all fire insurance, extended coverage or rental insurance premiums paid or payable by the Port Authority which shall have been charged because of such violations by the Contractor.
- f. The Contractor shall conduct its operations hereunder so as not to endanger, unreasonably interfere with, or delay the operations or activities of any tenants or occupants on the premises or the Facility and, moreover, shall use the same degree of care in performance on the premises as would be required by law of the Port Authority and shall conduct operations hereunder in a courteous, efficient and safe manner.
- g. The Contractor shall provide such equipment and medical facilities as may be necessary to supply first aid service in case of accidents to its personnel who may be injured in the furnishing of service hereunder. The Contractor shall maintain standing arrangements for the removal and hospital treatment of any of its personnel who may be injured.

19. Subcontracting

- a. The Contractor shall not sell, transfer, mortgage, pledge, subcontract or assign this Contract or any part thereof or any of the rights granted hereunder or any moneys due or to become due to it hereunder or enter into any contract requiring or permitting the doing of anything hereunder by an independent Contractor, without the prior written approval of the Port Authority, and any such sale, transfer, mortgage, pledge, subcontract, assignment or contract without such prior written approval shall be void as to the Port Authority.
- b. All subcontractors who provide permanent personnel to the Contractor for work under this contract shall be given written notice to comply with all requirements of the Contract. The Contractor shall be responsible and liable for the performance and acts of each subcontractor.
- c. All persons to whom the Contractor sublets services shall be deemed to be its agents and no subletting or approval thereof shall be deemed to release this Contractor from its obligations under this Contract or to impose any obligations on the Port Authority to such subcontractor or to give the subcontractor any rights against the Port Authority.

20. Indemnification and Risks Assumed By The Contractor

To the extent permitted by law, the Contractor shall indemnify and hold harmless the Port Authority, its Commissioners, officers, representatives and employees from and against all claims and demands, just or unjust, of third persons (including employees, officers, and agents of the Port Authority) arising out of or in any way connected or alleged to arise out of or alleged to be in any way connected with the Contract and all other services and activities of the Contractor under this Contract and for all expenses incurred by it and by them in the defense, settlement or satisfaction thereof, including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential, whether they arise from the acts or omissions of the Contractor, of the Port Authority, of third persons, or from the acts of God or the public enemy, or otherwise, including claims and demands of any local jurisdiction against the Port Authority in connection with this Contract.

The Contractor assumes the following risks, whether such risks arise from acts or omissions (negligent or not) of the Contractor, the Port Authority or third persons or from any other cause, excepting only risks occasioned solely by affirmative willful acts of the Port Authority done subsequent to the opening of proposals on this Contract, and shall to the extent permitted by law indemnify the Port Authority for all loss or damage incurred in connection with such risks:

- a. The risk of any and all loss or damage to Port Authority property, equipment (including but not limited to automotive and/or mobile equipment), materials and possessions, on or off the premises, the loss or damage of which shall arise out of the Contractor's operations hereunder. The Contractor shall if so directed by the Port Authority, repair, replace or rebuild to the satisfaction of the Port Authority, any and all parts of the premises or the Facility which may be damaged or destroyed by the acts or omissions of the Contractor, its officers, agents, or employees and if the Contractor shall fail so to repair, replace, or rebuild with due diligence the Port Authority may, at its option, perform any of the foregoing work and the Contractor shall pay to the Port Authority the cost thereof.
- b. The risk of any and all loss or damage of the Contractor's property, equipment (including but not limited to automotive and/or mobile equipment) materials and possessions on the Facility.
- c. The risk of claim, whether made against the Contractor or the Port Authority, for any and all loss or damages occurring to any property, equipment (including but not limited to automotive and/or mobile equipment), materials and possessions of the Contractor's agents, employees, materialmen and others performing work hereunder.
- d. The risk of claims for injuries, damage or loss of any kind just or unjust of third persons arising or alleged to arise out of the performance of work hereunder, whether such claims are made against the Contractor or the Port Authority.

If so directed, the Contractor shall at its own expense defend any suit based upon any such claim or demand, even if such suit, claim or demand is groundless, false or fraudulent, and in handling such shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority.

Neither the requirements of the Port Authority under this Contract, nor of the Port Authority of the methods of performance hereunder nor the failure of the Port Authority to call attention to improper or inadequate methods or to require a change in the method of performance hereunder nor the failure of the Port Authority to direct the Contractor to take any particular precaution or other action or to refrain from doing any particular thing shall relieve the Contractor of its liability for injuries to persons or damage to property arising out of its operations.

21. Approval of Methods

Neither the approval of the Port Authority of the methods of furnishing services hereunder nor the failure of the Port Authority to call attention to improper or inadequate methods or to require a change in the method of furnishing services hereunder, nor the failure of the Port Authority to direct the Contractor to take any particular precautions or to refrain from doing any particular thing shall relieve the Contractor of its liability for injuries to persons or damage to property arising out of its operations.

22. Safety and Cleanliness

- a. The Contractor shall, in the furnishing of services hereunder, exercise every precaution to prevent injury to person or damage to property and avoid inconvenience to the occupants of or any visitors to the Facility. The Contractor shall, without limiting the generality hereof, place such personnel, erect such barricades and railings, give such warnings, display such lights, signals or signs, place such cones and exercise precautions as may be necessary, proper or desirable.
- b. The Contractor shall in case of unsafe floor conditions due to construction, wetness, spillage, sickness and all other types of hazardous conditions proceed to rope off the unsafe area and place appropriate warnings signs to prevent accidents from occurring. The Contractor shall clean said area to the satisfaction of the Manager.
- c. The Contractor shall at all times maintain in a clean and orderly condition and appearance any and all facilities provided by the Port Authority for the Contractor's operations, and all fixtures, sink closets, equipment, and other personal property of the Port Authority which are located in said facilities.

23. Accident Reports

The Contractor shall promptly report in writing to the Manager of the Facility and to the Deputy Chief, Litigation Management of the Port Authority all accidents whatsoever arising out of or in connection with its operations hereunder and which result in death or injury to persons or damage to property, setting forth such details thereof as the Port Authority may desire. In addition, if death or serious injury or serious damage is caused, such accidents shall be immediately reported by telephone to the aforesaid representatives of the Port Authority.

24. Trash Removal

The Contractor shall remove daily from the Facility by means provided by the Contractor all garbage, debris and other waste material (solid or liquid) arising out of or in connection with its operations hereunder, and any such garbage, debris and other waste material not immediately removed shall be temporarily stored in a clear and sanitary condition,

approved by the Facility Manager and shall be kept covered except when filling or emptying them. The Contractor shall exercise care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall always be subject in all respects to the continual approval of the Port Authority. No equipment or facilities of the Port Authority shall be used in such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

25. Lost and Found Property

The Contractor shall instruct its personnel that all items of personal property found by the Contractor's employees must be turned in to the Port Authority and a receipt will be issued therefor.

26. Property of the Contractor

- a. All property of the Contractor at the Facility by virtue of this Contract shall be removed on or before the expiration or sooner termination or revocation of this Contract.
- b. If the Contractor shall fail to remove its property upon the expiration, termination or revocation of this Contract the Port Authority may, at its option, dispose of such property as waste or as agent for the Contractor and at the risk and expense of the Contractor, remove such property to a public warehouse, or may retain the same in its own possession, and in either event after the expiration of thirty (30) days may sell the same in accordance with any method deemed appropriate; the proceeds of any such sale shall be applied first, to the expenses of sale and second, to any sums owed by the Contractor to the Port Authority; any balance remaining shall be paid to the Contractor. Any excess of the total cost of removal, storage and sale and other costs incurred by the Port Authority as a result of such failure of performance by the Contractor over the proceeds of sale shall be paid by the Contractor to the Port Authority upon demand.

27. Modification of Contract

This Contract may not be changed except in writing signed by the Port Authority and the Contractor. The Contractor agrees that no representation or warranties shall be binding upon the Port Authority unless expressed in writing in this Contract.

28. Invalid Clauses

If any provision of this Contract shall be such as to destroy its mutuality or to render it invalid or illegal, then, if it shall not appear to have been so material that without it the Contract would not have been made by the parties, it shall not be deemed to form part thereof but the balance of the Contract shall remain in full force and effect.

29. Approval of Materials, Supplies and Equipment

Only Port Authority approved materials, supplies, and equipment are to be used by the Contractor in performing its services hereunder. Inclusion of materials or supplies on the Port Authority Approved Products List constitutes approval. The list may be revised from time to time and at any time by the Port Authority and it shall be incumbent upon the Contractor to obtain the most current list from the Engineering Services Division of the Engineering Department of the Port Authority.

At anytime during the bid, pre-performance or performance periods, the Contractor may propose the use of an alternate product or products to those on the Approved Products List, which product(s) shall be subject to review and approval by the Port Authority. Any alternate product so approved by the Port Authority may be used by the Contractor in performing its services hereunder. Until such approval is given, only products on the Approved Products List may be used.

30. Intellectual Property

The right to use all patented materials, appliances, processes of manufacture or types of construction, trade and service marks and copyrights, collectively hereinafter referred to as the "Intellectual Property Rights" in the performance of the work shall be obtained by the Contractor without separate or additional compensation. The Contractor shall indemnify the Port Authority against and save it harmless from all loss and expense incurred as a result of any claims in the nature of Intellectual Property Rights infringement arising out of the Port Authority's use, in accordance with the immediately preceding statement, of any protected Intellectual Property Rights. The Contractor, if requested, shall conduct all negotiations with respect to and defend such claims. If the Port Authority be enjoined either temporarily or permanently from the use of any subject matter as to which the Contractor is to indemnify the Port Authority against infringement, then the Port Authority may, without limiting any other rights it may have, require the Contractor to supply temporary or permanent replacement facilities approved by the Manager, and if the Contractor fails to do so the Contractor shall, at its expense, remove all such enjoined facilities and refund the cost thereof to the Port Authority or take such steps as may be necessary to insure compliance by the Port Authority with said injunction, to the satisfaction of the Port Authority.

31A. High Security Areas

- a. Services under the Contract may be required in high security areas, as the same may be designated by the Manager from time to time. The Port Authority shall require the observance of certain security procedures with respect to the high security areas, which may include the escort to, at, and/or from said high security areas by

security personnel designated by the Contractor or any subcontractor's personnel required to work therein.

- b. Twenty-four hours prior to the proposed performance of any work in a high security area, the Contractor shall notify the Manager. The Contractor shall conform to the procedures as may be established by the Manager from time to time and at any time for access to high security areas and the escorting of personnel hereunder. Prior to the start of work, the Contractor shall request a description from the Manager of the high security areas which will be in effect on the commencement date. The description of high security areas may be changed from time to time and at any time by the Manager during the term of the Contract.

31B. Notification of Security Requirements

The Port Authority operates facilities and systems, at which terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. The Authority reserves the right to impose multiple layers of security requirements on the performance of the Contract work, including on the Contractor, its staff and subcontractors and their staffs depending upon the level of security required, as determined by the Authority. The Contractor shall and shall instruct its subcontractors to cooperate with Authority staff in adopting security requirements. These security requirements may include but may not be limited to the following:

- i. Identity Checks and Background Screening

Contractor/subcontractor identity checks and background screening shall include but shall not be limited to: (1) inspection of not less than two forms of valid/current government issued identification (at least one having an official photograph) to verify staff's name and residence; (2) screening of federal, state, and/or local criminal justice agency information databases and files; (3) screening of any terrorist identification files; (4) multi-year check of personal, employment and /or credit history; (5) access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning.

The Contractor may be required to have its staff, and any subcontractor's staff, authorize the Authority or its designee to perform background checks. Such authorization shall be in a form acceptable to the Authority. If the Authority directs the Contractor to have identity checks and background screening performed by a particular firm designated by the Authority, the Authority will compensate the Contractor for the cost of such screening pursuant to the Extra Work provisions of the Contract.

- ii. Issuance of Photo Identification cards:

If the Authority requires facility-specific identification cards for the Contractor's and subcontractors' staff, the Authority will supply such identification cards at no cost to the Contractor.

iii. Access control, inspection, and monitoring by security guards:

The Authority will provide for facility access control, inspection and monitoring by Authority retained security guards. Should the Authority require the Contractor to hire security guards for the purpose of facility access control and inspection in lieu of or in addition to the Authority retained facility security guards, the Contractor will be reimbursed for the cost of such security guards pursuant to the Extra Work provisions of the Contract. However, this provision shall not relieve the Contractor of its responsibility to secure its equipment and work at the facility at its own expense.

The Authority may impose, increase, and/or upgrade security requirements for the Contractor, subcontractors and their staffs during the term of this Contract to address changing security conditions and/or new governmental regulations.

32. Construction In Progress

The Contractor recognizes that construction may be in progress at the Facility and may continue throughout the term of this proposed Contract. Notwithstanding, the Contractor shall at all times during the term hereof maintain the same standards of performance and cleanliness as prevails in non-affected areas as required by the standards hereunder.

33. Permit-Required Confined Space Work

Prior to commencement of any work, the Contractor shall request and obtain from the Port Authority a description of all spaces at the facility which are permit-required confined spaces requiring issuance of an OSHA permit.

Prior to the commencement of any work in a permit-required confined space at a Port Authority facility requiring issuance of an OSHA permit, the Contractor shall contact the Manager to obtain an Authority Contractor Permit-Required Confined Space Notification form. The notification form must be filled out and submitted prior to commencing permit-required confined space work. All confined space work shall be performed in accordance with all applicable OSHA requirements. The Contractor shall provide its employees with a copy of its own company permit and shall furnish the Port Authority with a copy of the permit upon completion of the work. The Contractor must supply all equipment required for working in a confined space.

34. Signs

Except with the prior written approval of the Port Authority, the Contractor shall not erect, maintain or display any signs or posters or any advertising on or about the Facility.

35. Vending Machines, Food Preparation

The Contractor shall not install, maintain or operate on the Facility, or on any other Port Authority property, any vending machines without the prior written approval of the Port Authority. No foods or beverages shall be prepared or consumed at the Facility by any of the Contractor's employees except in areas as may be specifically designated by the Port Authority for such purpose.

36. Non-Publication

The Contractor shall not issue nor permit to be issued any press release, advertisement, or literature of any kind, which refers to the Port Authority or to the fact that goods have been, are being or will be provided to it and/or that services have been, are being or will be performed for it in connection with this Agreement, unless the vendor first obtains the written approval of the Port Authority. Such approval may be withheld if for any reason the Port Authority believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

PART III CONTRACTOR'S INTEGRITY PROVISIONS

1. Certification of No Investigation (criminal or civil anti-trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure of Other Information

By bidding on this Contract, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that the Bidder and each parent and/or affiliate of the Bidder has not

- a. been indicted or convicted in any jurisdiction;
- b. been suspended, debarred, found not responsible or otherwise disqualified from entering into any contract with any governmental agency or been denied a government contract for failure to meet standards related to the integrity of the Bidder;
- c. had a contract terminated by any governmental agency for breach of contract or for any cause based in whole or in part on an indictment or conviction;
- d. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Bid;
- e. had any business or professional license suspended or revoked or, within the five years prior to bid opening, had any sanction imposed in excess of \$50,000 as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;
- f. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust regardless of the dollar amount of the sanctions or the date of their imposition; and
- g. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

2. Non-Collusive Bidding, and Code of Ethics Certification, Certification of No Solicitation Based On Commission, Percentage, Brokerage, Contingent or Other Fees

By bidding on this Contract, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, that

- a. the prices in its bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- b. the prices quoted in its bid have not been and will not be knowingly disclosed directly or indirectly by the Bidder prior to the official opening of such bid to any other bidder or to any competitor;

- c. no attempt has been made and none will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
- d. this organization has not made any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request to the individual named in the clause hereof entitled "Bidder's Questions"), nor does this organization have any knowledge of any act on the part of an Authority employee or former Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;
- e. no person or selling agency other than a bona fide employee or bona fide established commercial or selling agency maintained by the Bidder for the purpose of securing business, has been employed or retained by the Bidder to solicit or secure this Contract on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency; and
- f. the bidder has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain or direct business or to secure any other improper advantage in connection with this Contract.

The foregoing certifications shall be deemed to be made by the Bidder as follows:

- * if the Bidder is a corporation, such certification shall be deemed to have been made not only with respect to the Bidder itself, but also with respect to each parent, affiliate, director, and officer of the Bidder, as well as, to the best of the certifier's knowledge and belief, each stockholder of the Bidder with an ownership interest in excess of 10%;
- * if the Bidder is a partnership, such certification shall be deemed to have been made not only with respect to the Bidder itself, but also with respect to each partner.

Moreover, the foregoing certifications, if made by a corporate Bidder, shall be deemed to have been authorized by the Board of Directors of the Bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the Bidder cannot make the foregoing certifications, the Bidder shall so state and shall furnish with the signed bid a signed statement which sets forth in detail the reasons therefor. If the Bidder is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its bid, setting forth in such statement the reasons for its uncertainty.

Notwithstanding that the Bidder may be able to make the foregoing certifications at the time the bid is submitted, the Bidder shall immediately notify the Authority in writing during the period of irrevocability of bids on this Contract or any extension of such period of any change of circumstances which might under this clause make it unable to make the foregoing certifications or require disclosure. The foregoing certifications or signed statement shall be deemed to have been made by the Bidder with full knowledge that they would become a part of the records of the Authority and that the Authority will rely on their truth and accuracy in awarding this Contract. In the event that the Authority should determine at any time prior or subsequent to the award of this Contract that the Bidder has falsely certified as to any material item in the foregoing certifications or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Authority may determine that the Bidder is not a responsible Bidder with respect to its bid on the Contract or with respect to future bids on Authority contracts and may exercise such other remedies as are provided to it by the Contract with respect to these matters. In addition, Bidders are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g. New York Penal Law, Section 175.30 et seq.). Bidders are also advised that the inability to make such certification will not in and of itself disqualify a Bidder, and that in each instance the Authority will evaluate the reasons therefor provided by the Bidder.

3. Bidder Eligibility for Award of Contracts - Determination by an Agency of the State of New York or New Jersey Concerning Eligibility to Receive Public Contracts

Bidders are advised that the Authority has adopted a policy to the effect that in awarding its contracts it will honor any determination by an agency of the State of New York or New Jersey that a Bidder is not eligible to bid on or be awarded public contracts because the Bidder has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

The policy permits a Bidder whose ineligibility has been so determined by an agency of the State of New York or New Jersey to submit a bid on a Port Authority contract and then to establish that it is eligible to be awarded a contract on which it has bid because (i) the state agency determination relied upon does not apply to the Bidder, or (ii) the state agency determination relied upon was made without affording the Bidder the notice and hearing to which the Bidder was entitled by the requirements of due process of law, or (iii) the state agency determination was clearly erroneous or (iv) the state determination relied upon was not based on a finding of conduct demonstrating a lack of integrity or violation of a prevailing rate of wage law.

The full text of the resolution adopting the policy may be found in the Minutes of the Authority's Board of Commissioners meeting of September 9, 1993.

4. No Gifts, Gratuities, Offers of Employment, Etc.

During the term of this Contract, the Contractor shall not offer, give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Contractor on behalf of the Port Authority, whether or not such duties are related to this Contract or any other Port Authority contract or matter. Any such conduct shall be deemed a material breach of this Contract. As used herein "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by the Contract or any other Port Authority contract), etc. which might tend to obligate the Port Authority employee to the Contractor, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Contract or any other Port Authority contract. Where used herein, the term "Port Authority" shall be deemed to include all subsidiaries of the Port Authority.

The Contractor shall insure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by it and by its personnel for any reason whatsoever from the passengers, tenants, customers or other persons using the Facility and shall so instruct its personnel.

In addition, during the term of this contract, the Contractor shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

The Contractor shall include the provisions of this clause in each subcontract entered into under this Contract.

5. Conflict of Interest

During the term of this contract, the Contractor shall not participate in any way in the preparation, negotiation or award of any contract (other than a contract for its own services to the Authority) to which it is contemplated the Port Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such a contract if the Contractor has a substantial financial interest in the contractor or potential contractor of the Port Authority or if the Contractor has an arrangement for future employment or for any other business relationship with said contractor or potential contractor, nor shall the Contractor at any time take any other action which might be viewed as or give the appearance of conflict of interest on its part. If the possibility of such an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion, or if the Contractor has reason to believe such an arrangement may be the subject of future discussion, or if the Contractor has

any financial interest, substantial or not, in a contractor or potential contractor of the Authority, and the Contractor's participation in the preparation, negotiation or award of any contract with such a contractor or the review or resolution of a claim in connection with such a contract is contemplated or if the Contractor has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Contractor shall immediately inform the Director in writing of such situation giving the full details thereof. Unless the Contractor receives the specific written approval of the Director, the Contractor shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. In the event the Director shall determine that the performance by the Contractor of a portion of its services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Contractor's said services is determined by the Director to be no longer appropriate because of such preclusion, then the Director shall have full authority on behalf of both parties to order that such portion of the Contractor's services not be performed by the Contractor, reserving the right, however, to have the services performed by others and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Contractor's execution of this document shall constitute a representation by the Contractor that at the time of such execution the Contractor knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Contractor's part. The Contractor acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any contract which results, directly or indirectly, from the services provided by the Contractor hereunder.

6. Definitions

As used in this section, the following terms shall mean:

Affiliate - Two or more firms are affiliates if a parent owns more than fifty percent of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

Agency or Governmental Agency - Any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting agency and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or Federal, State, and local inquiries into tax returns.

Officer - Any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Bidder by whatever titles

known.

Parent - An individual, partnership, joint venture or corporation which owns more than 50% of the voting stock of the Bidder.

If the solicitation is a Request for Proposal:

Bid - shall mean Proposal;

Bidder - shall mean Proposer;

Bidding - shall mean submitting a Proposal.

In a Contract resulting from the taking of bids:

Bid - shall mean bid;

Bidder - shall mean Bidder;

Bidding - shall mean executing this Contract.

In a Contract resulting from the taking of Proposals:

Bid - shall mean Proposal;

Bidder - shall mean Proposer;

Bidding - shall mean executing this Contract.

THE PORT AUTHORITY OF NY & NJ

*Andrew S. Lynn
Director
Planning and Regional Development Department*

March 21, 2011

Paul Goodman
Chief Executive Officer
Billybey Ferry Company
Pier 79 Ferry Terminal
451 12th Avenue
New York, New York 10018

Dear Mr. Goodman:

Part I – Nature of This Agreement:

This is an Addendum to the Assignment Agreement dated March 16, 2005 (“Assignment Agreement”) between:

1. the Port Authority of NY & NJ (“Authority”), and
2. Port Imperial Ferry Corporation (“PIFC”), as Assignor, and
3. Billybey Ferry Company, LLC (“BBFC”), as Assignee,

with respect to:

1. the Agreement dated November 3, 1988 between the Authority and PIFC for Ferry Transportation, and
2. the Agreement dated November 4, 2003 between the Authority and PIFC for Pier 11 Service, and
3. the Agreement dated March 21, 2005 between PIFC and BBFC for Vessel Management.

The Authority and BBFC may be referred to collectively herein as the “Parties.”

Part II – Existing Circumstances. The Parties hereby agree and acknowledge that:

1. BBFC, pursuant to authority granted to it in the Assignment Agreement, currently operates trans-Hudson ferry service at New Jersey Transit’s (“NJT”) Hoboken Terminal (“Hoboken”).
2. the terms of the PIFC/BBFC Vessel Management Agreement require BBFC to berth its vessels at property leased by PIFC in Weehawken, NJ.
3. PIFC has indicated that residential development will soon make it impossible for BBFC to berth its vessels at Weehawken, NJ.
4. BBFC therefore contemplates entering into a lease for a term of approximately ten years (“Lease”) with NJT for the construction and operation of a berthing and light maintenance facility (“Facility”) at Hoboken.
5. the Authority has reviewed and approved as to form the BBFC/NJT Lease.

233 Park Avenue South, 11th Floor
New York, NY 10003
T: 212 435 4437
alyenn@panynj.gov

THE PORT AUTHORITY OF NY & NJ

Mr. Paul Goodman

- 2 -

March 21, 2011

Part III – Parties' Motivation and Common Understandings.

1. It is the Parties' common understanding that NJT wishes to see trans-Hudson ferry service continue but that NJT has concerns about PIFC's financial viability.
2. The Authority also wishes to see trans-Hudson ferry service continue and also has concerns about PIFC's financial viability.
3. The Authority and NJT therefore desire that that BBFC shall stand ready to provide trans-Hudson ferry service between Weehawken Terminal and Pier 79 and between Edgewater and Pier 79 (and possibly from other locations in New Jersey from which PIFC now operates ferry service) in the event PIFC becomes unable to provide service from these locations.
4. The Facility, once constructed, will serve as necessary infrastructure for BBFC in order for BBFC to be able to conduct its operations independently of PIFC, should financial (or any other) issues prevent PIFC from fulfilling its obligations under the Vessel Management Agreement and other agreements between PIFC and BBFC.
5. Construction and operation of the Facility is essential for BBFC if BBFC is to continue its ferry operations.
6. The terms of the Lease require that BBFC and any affiliates:
 - a. make a substantial financial investment in the construction of the Facility, and
 - b. undertake financial obligations (currently undertaken by PIFC) for the ongoing operation of the Facility, and
 - c. commit to providing trans-Hudson ferry service to and from Hoboken for the duration of the Lease term.
7. It is the Parties' common understanding that NJT also seeks an Extension of the term of the Assignment Agreement.
8. The Authority declines to extend the term of the Assignment Agreement until and unless BBFC agrees to:
 - a. upgrade its fleet for maximum fuel efficiency and noise reduction, and
 - b. stand ready to provide trans-Hudson ferry service between Weehawken Terminal and Pier 79 and between Edgewater and Pier 79 and other NJ locations currently served by PIFC.

Part IV – Provisions of This Agreement: In light of the Existing Circumstances and the Parties' Motivation and Common Understandings, the Parties hereby agree that:

1. the term of the Assignment Agreement is hereby extended to October 11, 2019.

THE PORT AUTHORITY OF NY & NJ

Mr. Paul Goodman

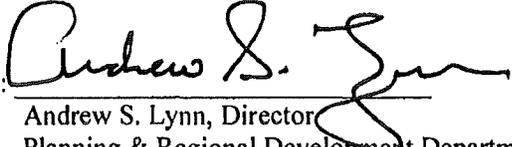
- 3 -

March 21, 2011

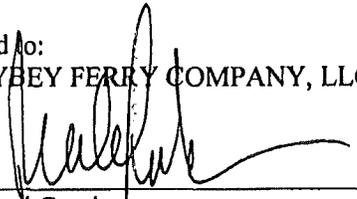
2. should PIFC during the term of the Assignment Agreement as extended fail to provide trans-Hudson ferry service between Weehawken Terminal and Pier 79 and between Edgewater and Pier 79 (and from other locations in New Jersey from which PIFC now operates ferry service), BBFC will use its best efforts (subject to agreement between BBFC and the Authority and NJT and other governmental entities with jurisdiction over such services on such matters as route configurations and frequency of service) to provide such ferry services, and
3. no existing provision of the Assignment Agreement shall change, except that, as noted above:
 - a. the term of the Assignment Agreement is extended to October 11, 2019, and
 - b. BBFC shall, on a schedule to be decided by BBFC and the Authority, use commercially reasonable efforts to continue to upgrade its fleet to improve fuel efficiency and noise reduction, and
 - c. should BBFC (following PIFC's failure to provide trans-Hudson ferry service between Weehawken Terminal and Pier 79 and between Edgewater and Pier 79 (and from other locations in New Jersey from which PIFC now operates ferry service)) fail to use its best efforts to provide trans-Hudson ferry service to those locations the PA may revoke this extension of the Assignment Agreement.
4. determination of whether PIFC is failing to provide trans-Hudson ferry service shall rest with the Authority.
5. any capitalized term used herein without definition shall have the meaning provided therefor in the Assignment Agreement.

If the foregoing correctly sets forth our understandings and agreement, please sign where indicated below.

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

F.F.  By: 
Andrew S. Lynn, Director
Planning & Regional Development Department

Agreed to:
BILLYBEY FERRY COMPANY, LLC

By: 
Paul Goodman
Chief Executive Officer

VESSEL MANAGEMENT AGREEMENT

BETWEEN

BILLYBEY FERRY COMPANY, LLC

AND

PORT IMPERIAL FERRY CORP.

This Management Agreement (this "Agreement") is made as of March 11, 2005 between Billybey Ferry Company, LLC ("BBFC"), a limited liability company organized and existing under the laws of the State of Delaware, and Port Imperial Ferry Corp. ("PIFC"), a corporation organized and existing under the laws of the State of New Jersey. BBFC and PIFC are parties to an Asset Purchase Agreement dated as of December 20, 2004 (the "Purchase Agreement") pursuant to which BBFC is acquiring from PIFC certain commuter ferry routes between New Jersey and New York and 16 ferry vessels used in the operation of such routes (as more particularly set forth on Schedule A, the "Vessels"). As contemplated by the Purchase Agreement, BBFC desires to engage PIFC to operate and maintain the Vessels and certain terminals utilized in connection with the ferry routes, all in accordance with the terms and conditions of this Agreement.

1. AGREEMENT TO OPERATE

BBFC hereby engages PIFC, such engagement to become effective on the Closing Date under the Purchase Agreement, on the terms and conditions herein set forth as an independent contractor to (i) operate the Vessels in connection with BBFC's commuter ferry routes and as BBFC may otherwise direct, including its touring and private charter operations ("Ferry Operations"), (ii) maintain the Vessels ("Ferry Maintenance") and (iii) operate and maintain the terminals utilized by BBFC from time to time ("Terminal Operations"). PIFC hereby accepts such engagement and undertakes to perform its duties hereunder in accordance with sound ship management practice, as a prudent shipowner would, and in compliance with the laws and regulations of any government or competent authority applicable to the operation of the Vessels.

2. DUTIES OF PIFC

Without limiting the generality of the provisions of Section 1, and except as otherwise provided in this Agreement, PIFC shall, as an independent contractor of BBFC, undertake the following duties:

Ferry Operations.

(a) man the Vessels, with all captains and deckhands being in the employ of PIFC; in that regard, PIFC shall pay, provide benefits, train and supervise such crews. PIFC shall also provide the services of their port captains to coordinate and schedule the activities of the crews and the scheduling of the Vessels.

(b) schedule the operation of the Vessels so as to maintain the frequency and capacity required to be maintained by BBFC under its commitments to the Port Authority or other agencies or landlords and as BBFC may otherwise reasonably instruct in connection with its other operations and in doing so shall comply with such performance standards as may be required of BBFC under such commitments.

(c) maintain the registration of the Vessels in the name of BBFC with coastwise endorsements and arrange compliance with or advise BBFC of all requirements and regulations of governmental, municipal and port or harbor authorities whose jurisdiction directly affects the Vessels, including without limitation the United States Coast Guard, the New York City Department of Transportation and the Port Authority of New Jersey and New York.

(d) maintain full and complete records of the operation of the Vessels in such form as may be reasonably required by BBFC, and prepare reports for BBFC concerning all phases of such operation. PIFC shall provide such reports and documents as BBFC may require consistent with sound prudent Vessel management.

(e) provide shoreside engineering, operations, administration and purchasing staff and Port Captains and Port Engineers as necessary for the safe, efficient and economical operation of the Vessels and the timely performance of PIFC's responsibilities set forth herein.

Ferry Maintenance.

(f) advise BBFC on technical and engineering matters, which may arise from the operation of the Vessels and arrange and supervise all surveys, repairs and routine maintenance of the Vessels and procure spare parts or replacements. In that regard, PIFC shall employ the maintenance crews and provide pay, provide benefits, train and supervise such maintenance crews. As to any major overhauls of the Vessels, PIFC shall request bids for such work and assist BBFC in the process of selecting vendors and supervising and overseeing the work of such vendors.

(g) purchase all necessary supplies, fuel and stores for the maintenance of the crews and for the proper maintenance and operation of the Vessels.

(h) develop and maintain, on behalf of BBFC, a comprehensive inventory and planned maintenance system in such manner as to identify machinery and equipment maintenance requirements as well as regulatory inspection requirements. These systems shall be regularly updated and capable of providing information and reports required for budget development and evaluation.

(i) take all such steps on behalf of the Vessels as would be taken by a prudent Vessels owner to ensure her safe and efficient performance and perform any other service in connection with the maintenance or repair, of the Vessels that BBFC may reasonably request.

(j) Upon termination or expiration of this Agreement, turn over to BBFC the Vessels and other property of whatsoever kind then in the custody of PIFC pursuant to this Agreement.

Terminal Operations.

(o) supervise the operation of the ferry terminals utilized from time to time by BBFC, including cleaning and inspecting such facilities and repairing any fenders, piles, racks, floats, ramps and other facilities at such terminals.

(p) provide or arrange for such security services as may be required for the safe operation of the terminal facilities, as may be required under commitments of BBFC or as BBFC may otherwise reasonably require.

(q) assist BBFC in its ticketing operations, including on an interim basis, continuing to employ ticketing personnel at the facilities of BBFC. BBFC may at any time elect to employ its own ticketing and ticketing supervisory personnel.

(r) provide such assistance to BBFC with respect to concessionaires operating at the terminals as BBFC may reasonably request.

(s) provide storage facilities for the Vessels when not in use to the extent such Vessels are not stored at terminals utilized by BBFC.

3. DUTIES OF PIFC REQUIRING PRIOR APPROVAL OF BBFC

(a) No material modification of any Vessel shall be made without the specific written approval of BBFC.

(b) PIFC shall consult with BBFC in planning for periodic drydockings, overhauls and modifications and the preparation of specifications and budgets for same. Periodic drydocking of the Vessels shall be arranged or performed by PIFC only with BBFC's prior approval and in accordance with BBFC's directions or instructions.

(c) Except in the case of emergencies involving a Vessel, PIFC shall notify BBFC and obtain BBFC's approval prior to undertaking expenditures not contemplated by the Schedule of Expenses. PIFC shall not be liable for any delays or added expense incurred while obtaining any requested approvals from BBFC.

(d) PIFC shall not sub-contract any of its obligations under this Agreement without the express written consent of BBFC. In the event of any such sub-contract, PIFC shall remain fully liable to BBFC for the due performance of PIFC's obligations under this Agreement.

(e) In those instances where this Agreement expressly requires prior consent of BBFC, PIFC is not obligated to act until PIFC has received such consent.

(f) Except where this Agreement expressly requires prior consent of BBFC, PIFC is granted management discretion in performing all services under this Agreement.

(h) PIFC may require BBFC, on reasonable notice, to give PIFC directions or instructions with respect to particular actions PIFC intends to take with respect to any Vessel. In the absence of such instructions or directions, PIFC shall have no obligation to take action, but may act in PIFC's discretion in accordance with sound ship management practice, as a prudent shipowner would, and in compliance with the laws and regulations of any government or competent authority applicable to the operation of the Vessels.

4. EXPENSE REIMBURSEMENT

It is the intent of BBFC and PIFC that this Agreement shall provide for the reimbursement by BBFC to PIFC of the costs and expenses incurred by PIFC in providing the services provided for herein, including, without limitation, the costs to PIFC for providing port captains, captains and deckhands for the operation of the Vessels and other PIFC employees or third party contractors used in maintaining and servicing the Vessels in accordance with the terms of this Agreement. BBFC shall reimburse PIFC or place PIFC in sufficient funds for PIFC's payment of all costs, expenses, disbursements, claims and charges, paid or made and obligations incurred by PIFC in performing its services pursuant to this Agreement in accordance with a Schedule of Expenses from time to time established by PIFC and BBFC. The initial Schedule of Expenses is annexed hereto as Schedule B. PIFC shall maintain sufficient books and records to enable BBFC to review the calculations of expenses contemplated by the Schedule of Expenses.

5. INSURANCE

PIFC, with the prior approval and direction of BBFC, shall place and administer hull and machinery, protection and indemnity, war risk, offhire, and other insurance as contemplated or required in connection with the operation or financing of the Vessels ("Vessel-Related Insurance"), with such underwriters and in such amounts as BBFC may deem necessary and appropriate and as shall comply with the requirements imposed upon BBFC under the relevant financing documents between BBFC and the Maritime Administration and under the various landing rights agreements to which BBFC is a party. BBFC will provide PIFC with the relevant agreements setting forth such requirements. Such insurance shall include PIFC as an additional insured. All insurance policies contemplated and required in connection with the financing of the Vessels shall be subject to the provisions of the relevant financing documents between BBFC and the Maritime Administration. PIFC shall require underwriters to give BBFC thirty (30) days written notice prior to cancellation of insurance where such notice would not conflict with the terms of the policies. BBFC will pay on a direct basis the premiums due in respect of such insurance policies and the Secretary shall be named sole loss payee whenever required by the Mortgage in favor of the Secretary, and BBFC shall be named as loss payee in all other cases. To the extent that BBFC and PIFC determine to procure any property or liability insurance (not including any Vessel-Related Insurance) on a mutual basis, the cost of such insurance shall be allocated between BBFC and PIFC based on relative square footage of the property so insured.

6. TERM OF AGREEMENT AND TERMINATION OF AGREEMENT

(a) This Agreement shall become effective on the Closing Date and shall expire and terminate upon the earliest of (i) termination of this Agreement by PIFC upon 10 days prior written notice for nonpayment of expenses by BBFC if such nonpayment is not cured within such 10 day period; (ii) upon termination of this Agreement by BBFC as provided in 6(c) hereof; or (iii) upon termination of this Agreement by BBFC or PIFC as provided in Section 6(b) or Section 6(d) hereof.

(b) Either BBFC or PIFC may terminate this Agreement at will by giving the other not less than 90 days prior written notice thereof, provided that PIFC may not give such notice sooner than six months after the Closing Date and PIFC may not give such notice if at such time PIFC continues to operate the northern routes of the NY Waterway system.

(c) If PIFC fails to materially meet its obligations under this Agreement for any reason within the control of PIFC, BBFC may give notice to PIFC of the material default and require PIFC to remedy such default as soon as practically possible. In the event that PIFC fails to remedy the default within 30 days of such notice to the satisfaction of BBFC, BBFC shall be entitled to terminate this Agreement with immediate effect by notice in writing.

(d) Either party shall have the option to terminate this Agreement with immediate effect by notice in writing in the event of an order having been made or resolution passed for the winding up, dissolution, liquidation or bankruptcy of the other party or if a receiver is appointed, or if it commences proceedings under any bankruptcy or insolvency laws to seek protection from its creditors, provided that such other party shall have a period of 60 days in which to discharge any involuntary bankruptcy petition filed against it.

(e) Upon termination of this Agreement, PIFC shall perform all services necessary to wind up all matters relating to its performance hereunder.

(f) Following termination and expiration of this Agreement, a final accounting shall be prepared by PIFC for BBFC of PIFC's management of the Vessels from the date of the last account rendered to the date of termination (plus post-termination expenses, if any, incurred for the benefit of BBFC), and PIFC shall promptly repay (i) any amounts advanced to it by BBFC which have not been earned, expended, or committed in accordance with the provisions of this Agreement, and (ii) all other amounts payable to BBFC; and BBFC shall promptly pay to PIFC any amounts earned, expended or committed by PIFC in accordance with the provisions of this Agreement which have not been paid.

(g) Upon receipt of notice of termination of this Agreement, PIFC shall fully cooperate with BBFC and any newly appointed manager designated by BBFC to assure an efficient and smooth transfer of the management functions to the new manager, and to avoid risk to the Vessels and delay in performance.

(h) Termination of this Agreement shall be without prejudice to all rights accrued between the parties prior to the date of termination and shall not relieve BBFC or PIFC of any obligations or liabilities accrued during the period prior to such termination.

(i) BBFC may, on 30 days written notice to PIFC, discontinue the utilization of PIFC's services for either or both of the Ferry Maintenance and the Terminal Operations, in which event the Schedule of Expenses shall be appropriately adjusted to reflect such discontinued services.

7. RIGHT OF INSPECTION

BBFC and any person designated by BBFC shall have the right at any time, upon reasonable notice to PIFC, during the period of this Agreement to inspect or survey any Vessel in order to ascertain her condition and to insure that the Vessel is being properly operated, repaired and maintained. Any inspection requiring drydocking shall be made only when a Vessel is in drydock and any inspection not requiring drydocking shall be made at such time or times as shall not interfere with the normal operation of such Vessel. BBFC and any person designated by BBFC shall have the right at any time, upon reasonable notice to PIFC, during the period of this Agreement, to inspect the books and records of PIFC that pertain to the operation of the Vessels and the calculation of the expenses contemplated by the Schedule of Expenses.

8. LIABILITY

(a) PIFC shall act prudently and with reasonable care and professionalism, but shall be under no liability whatsoever to BBFC for any loss, damage, delay, or expense of whatsoever nature, whether direct or indirect (including, but not limited to, loss of profit arising out of or in connection with detention or delay to a Vessel or the operation of a Vessel) and howsoever arising in the course of performance of this Agreement, unless caused by the gross negligence or willful misconduct of PIFC, its employees, or agents or subcontractors employed by them in connection with the Vessels.

(b) BBFC shall indemnify, hold harmless and defend PIFC against any and all claims and demands asserted against PIFC of whatsoever kind or nature and by whosoever asserted (but not arising out of gross negligence or willful misconduct of PIFC), for injury to persons or property arising out of or in any way connected with the condition, use or operation of the Vessels or the performance of PIFC's services in good faith hereunder; including, but not limited to, claims for damages or injuries to, or loss of, property, cargo or personal effects, and claims for damages for personal injury or loss of life, and claims for maintenance or cure. PIFC shall promptly notify BBFC of any claim or demand asserted against BBFC, any Vessel, or PIFC in connection with or arising out of the condition, use or operation of the Vessels, or the performance of PIFC's duties hereunder, and shall cooperate with BBFC in the defense thereof.

(c) This Section shall be and remain effective notwithstanding any breach or default in performance by PIFC or any of its officers, directors, agents or employees of

their obligations or activities in respect of this Agreement. Further, the indemnity set forth in this Section shall survive the expiration or termination of this Agreement.

9. LOSS, SALE OR REQUISITION

In the event that any Vessel is lost or requisitioned for title by a governmental power, then the management of such Vessel shall terminate as of the date of such loss or requisition. Such Vessel shall not be considered requisitioned if called up under a temporary emergency program.

10. COLLECTIVE BARGAINING AGREEMENTS AND RELATED MULTI-EMPLOYER PLANS

(a) BBFC is not and will not become an employer of the licensed officers or unlicensed personnel constituting the Crew of the Vessels.

(b) By entering into and performing this Agreement, BBFC is not undertaking any obligation, either directly as an employer, or indirectly, with respect to any collective bargaining agreements, arbitration awards, or under any employment law, covering crew members of the Vessels or with respect to any related pension, welfare, or fringe benefit plans, including severance payments and withdrawal liabilities, if any.

11. MISCELLANEOUS

(a) Amendments. This Agreement shall not be amended or modified without the prior written consent of the United States of America, represented by the Secretary of Transportation, acting by and through the Maritime Administrator (the "Secretary") (provided, however, that the foregoing shall not apply to periodic changes in the ordinary course of business to the duties performed and expenses payable under Schedule B annexed hereto), and then only by written instrument executed by duly authorized officers of BBFC and PIFC.

(b) Waiver. No failure to enforce or insist upon performance of any provision of this Agreement and no waiver by any party of any one or more defaults by the other party in the performance of any provision of this Agreement shall operate or be construed as a waiver of such provision or of any future default or defaults, whether of like or of a different character, nor require or imply a similar indulgence on any other occasion.

(c) Agreement Binding upon Successors, and Assigns; Assignment of Agreement. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, subject to the terms of this Agreement, each party, its successors or assigns. This Agreement may be assigned by BBFC upon written notice to PIFC in conjunction with the financing of the Vessels, whether or not such financing involves a change in ownership; provided, however, that BBFC agrees to use its best efforts to cause the parties to the financing to agree to the modification of this Agreement at PIFC's request to the extent reasonably deemed necessary by PIFC to protect fully PIFC's rights hereunder. BBFC may not otherwise assign this Agreement to any person without the prior written consent of PIFC. PIFC shall not assign this

Agreement to any person without the prior written consent of BBFC, except that PIFC may assign its rights under this Agreement as collateral for its lenders. Any request, notice, direction, consent, waiver or other action taken by a party in connection with this Agreement or related transactions shall bind the successors and assigns of such party. Notwithstanding the foregoing, neither PIFC nor BBFC may assign this Agreement for any purpose without the prior written consent of the Secretary.

(d) No Waiver as Against Third Parties. No provision of this Agreement shall be construed to be a waiver on the part of BBFC or PIFC of the benefit of any limitation of, or exemption from, liability accorded BBFC or PIFC or the Vessels by any statute or rule of law; provided, however, that this sub-section shall not in any way affect the obligations of PIFC and BBFC to each other hereunder.

(e) Notices. Unless otherwise provided herein all notices and other communications provided for in this Agreement shall be in writing (by letter or telecopy) or by telephone of subsequently confirmed within three days by letter, mailed first class certified mail, postage prepaid. Any such notice or communication shall be sent to:

If to PIFC:

Pershing Road
Weehawken, New Jersey 07086
Attention: Donald Liloia

If to BBFC:

c/o Wachtel & Masyr, LLP
110 East 59th Street
New York, New York 10022
Attention: William B. Wachtel

Each party may at any time designate different or further addresses to which notices and other communications are henceforth to be sent, such designation to be made by written notice to the other party. Notices in writing shall be effective when received, and notice by telephone shall constitute written notice when the call is received by the party to whom such notice is sent, if subsequently confirmed as provided in this Section.

(g) Severability. If any term or provision of this Agreement shall be rendered invalid, illegal or unenforceable, the remaining terms and provisions shall be unaffected thereby and shall continue in full force and effect.

(h) Counterparts. This Agreement may be executed in separate counterparts, each of which when delivered shall be an original, but all of which shall constitute one and the same instrument.

(i) Headings Only for Reference. The headings of the various Sections of this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(j) Subordination to Mortgage. PIFC acknowledges and agrees that any claims PIFC may at any time have against any Vessel under this Agreement or as a consequence of the implementation hereof shall be subject and subordinate to (i) the lien of any mortgage placed on such Vessel, and (ii) the rights of any mortgagee thereunder.

(k) Entire Agreement. This Agreement embodies the entire agreement and understanding between BBFC and PIFC relating to the subject matter hereof and supersedes all prior agreements and understandings related to such subject matter.

(l) Arbitration. Should there be any dispute between the parties arising out of, or related to, this Agreement, the matter in dispute shall be referred to three persons in Hudson County, New Jersey one to be appointed by BBFC, one to be appointed by PIFC, and the third to be appointed by the two so chosen. In the event that either BBFC or PIFC shall send notice to the other party stating a dispute and designating an arbitrator in writing, the other party shall have thirty (30) days to designate its arbitrator, failing which, the arbitrator selected by the first party shall appoint a second arbitrator, who shall be a disinterested person, with the same force and effect as though the second arbitrator was appointed by the second party. The decision of any two of the three arbitrators shall be final, and for the purpose of enforcing any award, this agreement may be made a rule of the Court. The arbitrators shall be commercial persons conversant with maritime shipping matters. In the event the two appointed arbitrators cannot agree upon a third arbitrator, either party may move on an expedited basis in the United States District Court for New Jersey for the appointment of a third arbitrator. Any arbitral award may be enforced in the Federal or state courts in the State of New Jersey or in any other courts having jurisdiction. Each party hereby submits itself to the non-exclusive jurisdiction of the United States District Court for New Jersey and the courts of the State of New Jersey located in the County of Hudson for such purpose.

(m) Governing Law. This Agreement and the rights and obligations of the parties shall be governed by and construed in accordance with the laws of the State of New Jersey, including all matters of construction, validity and performance, but without regard to any choice of law principles that might permit or require the application of the law of a different jurisdiction; and, where applicable, the laws (including the general maritime law) of the United States.

(n) Additional Actions. Subject only to the conditions specified herein, each party shall execute all documents and take all actions reasonably required to effectuate the purposes of this Agreement, including compliance with all applicable laws and regulations.

(o) Force Majeure. Neither BBFC nor PIFC shall be liable in respect to any losses, damages or delays resulting from a failure or delay in exercising of any of the obligations under this Agreement, if that failure or delay is due to wars, revolutions or civil commotions, embargoes, blockades, legal restrictions, riots, fires, floods, strikes,

government actions, or other cause beyond the control of the parties to this Agreement.

(p) Contracting. When entering into and performing contracts on behalf of BBFC or itself for the Vessels, PIFC shall use all reasonable efforts to negotiate the best cost consistent with quality and services for the benefit of BBFC. BBFC shall, whenever it is lawful, have the benefit of any existing or future contracts of PIFC for the purchase of materials, fuel supplies, equipment or services, etc. In the event PIFC shall obtain any repairs, stores, provisions, materials, fuel, supplies or equipment from any affiliate of PIFC, the cost incurred by PIFC in respect thereof shall be deemed to be the actual cost thereof to such affiliate plus any actual transportation, insurance or related costs incurred, but without any mark-up or other allowance for profit, commissions or the like. The obligations of PIFC under this Section are subject to the more specific provisions of the Schedule of Expenses to the extent such Schedule specifies the manner in which certain expenses are to be determined and to the provisions of Section 3 hereof regarding prior approvals required from BBFC.

(q) Applicable law, etc. Nothing contained in this Agreement is intended to, or shall be deemed to, (i) increase, enlarge, alter, amend, modify, change, vary or otherwise affect in any way the liabilities, obligations, or responsibilities (if any) of BBFC or any entity affiliated therewith under applicable law, documentation, and court orders, or (ii) alter, amend, modify, change, vary, prejudice, waive or otherwise affect in any way the rights, remedies, entitlements, benefits, protections, defenses, privileges, and immunities of or relating to BBFC or any entity affiliated therewith under applicable law, documentation, and court orders.

(r) No Third Party Beneficiary. No provision of this Agreement shall, or shall be deemed to, create any third-party beneficiary rights in any person, plan, trust or other entity (including, without limitation, any union or multiemployer plan) in respect of the payment of any amount due or owing from or to PIFC or otherwise, for any period, for any reason, or of any nature or kind whatsoever.

(s) U.S. Citizenship. PIFC and BBFC shall each maintain its U.S. citizenship within the meaning of Section 2 of the Shipping Act, 1916 (recodified at 46 U.S.C. Section 50501), throughout the term of this Agreement.

IN WITNESS WHEREOF, BBFC and PIFC have caused this Agreement to be executed on the date first written above by their respective authorized officers.

PORT IMPERIAL FERRY CORP.

BILLYBEY FERRY COMPANY, LLC

By: _____

Name: Donald Liloia
Title: Executive Vice President
Date: March 11, 2005

By: _____

Name: Paul Goodman
Title: Chief Executive Officer
Date: March 11, 2005

SCHEDULE A

VESSELS

Vessel Name	Official Number
Yogi Berra	1091258
Fiorello LaGuardia	1091256
Frank Sinatra	1091257
Empire State	997922
Garden State	1022780
Henry Hudson	989554
John Stevens	1048895
Christopher Columbus	1100520
Giovanni Da Verrazano	1109244
Douglas B. Gurian	1121371
US Senator Frank R. Lautenberg	1125842
Brooklyn	1125849
Hoboken	1128485
Enduring Freedom	1127372
Fred V. Morrone	1127373
Father Mychal Judge	1121369

SCHEDULE B

INITIAL SCHEDULE OF EXPENSES

Funding: Prior to the effective date of this Agreement, PIFC and BBFC will establish a budget for costs contemplated by this Agreement for 2005. The budget will be based on a fiscal year consisting of 13 four week periods (each, a "Period"). BBFC will fund the budget in advance on a biweekly basis to the extent the expenses identified therein are to be paid by PIFC on behalf of BBFC. Within 15 days after the end of each Period, PIFC and BBFC will reconcile the actual costs to be borne by BBFC for the prior Period against the amount advanced therefor by BBFC. To the extent that the budget differs from the most recent reconciliation in the manner in which allocation formulas are determined, the budget will be revised so that future advances by BBFC will be in accordance with the allocations included in the then most recent reconciliation. To the extent of any inconsistency between the budget and this Agreement, this Agreement shall govern. BBFC will not be responsible for any expense of PIFC not identified in this Schedule B. PIFC may from time to time submit a requisition for any cost to be borne by BBFC under this Agreement that is not set forth in the budget. If BBFC elects to change its service operations or discontinue either or both of the Ferry Maintenance or Terminal Operations services from PIFC, the parties will in good faith revise the budget to reflect such changes.

Personnel: Hiring and firing decisions are in the discretion of PIFC. Salary levels are in the discretion of PIFC but shall be consistent with past practices. PIFC will consult with BBFC prior to implementing any change in salary levels. PIFC may not, however, without the consent of BBFC, allocate to BBFC the cost of any more employees than are currently employed for particular functions where the cost of such function is based on a Pass-Through of Actual Cost.

The chart below sets forth the method of calculating expenses to be paid by BBFC to PIFC under this Agreement. Certain terms used in the chart have the following definitions.

Service Hours Allocation: Captains and Deckhands will maintain time records indicating the hours worked on the Vessels and hours worked on all other activities for PIFC (including in the case of PIFC any vessels serviced for third parties). PIFC will calculate the total payroll of all Captains and Deckhands, respectively, and establish a blended rate per service hour for each Period for each such class of employee, regardless of seniority or overtime.

Total Service Hours Allocation: The percentage obtained by dividing the aggregate number of service hours that Captains and Deckhands worked on the BBFC Routes by the aggregate number of service hours worked by the Captains and Deckhands in total.

Pass-Through of Actual Cost: Actual cost thereof, without any mark-up, overhead allocation (unless otherwise specified) or other allowance for profit, commissions or the

like. All contractual third-party costs will be paid on this basis (landing fees, armored car service, license and permit fees, barge lease costs, and the like).

Payroll: Payroll (whether for allocated employees or pass-through employees) is comprised of actual salary, payroll taxes and benefits. PIFC will provide appropriate supporting documentation for the calculation of such amounts.

Service	Cost Method	Additional Comments
Ferry Operations		
Captains/Deckhands	Service Hours Allocation	BBFC will bear the cost, at the blended rate per hour, of the hours worked by Captains and Deckhands on the BBFC Routes.
Port Captains	Total Service Hours Allocation	The total payroll of the three port captains (who handle dispatching, scheduling, coast guard compliance and licensing compliance) will be allocated between BBFC and PIFC based on the Total Service Hours Allocation for the applicable Period of the Captains and Deckhands
Fuel	Pass-Through of Actual Cost, plus a \$.03 gallon handling charge	PIFC will provide BBFC with tickets evidencing all fuel purchases for the Vessels.
Ferry Maintenance	Notwithstanding the following, annual maintenance expense for the Vessels shall not exceed an average of \$125,000 per Vessel (inclusive of all labor, parts, supplies, overhead and other expenses, but not including (i) repowering of Vessels (i.e. replacing an engine) if elected by BBFC, or (ii) repairs resulting from any collision or allision of any of the Vessels). The annual maintenance expense for each annual period shall be calculated commencing with the 4 th Period of such calendar year through the end of the 3 rd Period of the next calendar year.	
Preventive Maintenance	Mechanics, Supervisory, Overhead and Facility (including travel lift): Hours	Daily cleaning, fluid servicing and fueling.

Service	Cost Method	Additional Comments
	<p>Worked at an initial rate of \$70.00 per hour. The foregoing rate was established based upon the current estimated costs incurred in maintaining the Vessels. BBFC and PIFC will review PIFC's actual costs on a quarterly basis and discuss in good faith any appropriate adjustment to such hourly rate.</p> <p>Boat Porters: Allocate entire salary and benefits of two boat porters based on the respective number of vessels of BBFC and PIFC (including in the case of PIFC any vessels serviced for third parties)</p>	<p>250 hour, 750 hour, 1,500 hour and 3,000 hour servicing in accordance with attachments A, B, C and D respectively.</p> <p>Mechanics will maintain time records to establish hours worked.</p>
Initial Maintenance	No cost to BBFC	<p>PIFC was obligated to paint the Vessels and refurbish the interiors of the Vessels (by replacing seat covers and flooring where appropriate). Weather, time and financial constraints limited what could be accomplished prior to closing. PIFC will complete such painting and refurbishing as soon as practicable post-closing (but in no event later than six months after the Closing Date) at its own cost and expense. PIFC will discuss and coordinate such schedule with BBFC.</p>
Parts	Pass-Through of Actual Cost	<p>BBFC is entitled to a credit of \$88,500 for existing parts inventory pursuant to the Purchase Agreement</p>
Unscheduled	Pass-Through of Actual Cost	PIFC will obtain third-

Service	Cost Method	Additional Comments
Maintenance		party quotes for any major unscheduled Vessel repairs and will submit its own quote for such repair. BBFC will promptly advise PIFC of the manner in which it elects to proceed
Terminals		
Ticket Agents	Pass-Through of Actual Cost	BBFC will bear the cost of the ticket agents located at its terminals.
Ticket Supervisors	Pass-Through of Actual Cost	Two supervisors dedicated to the Southern Routes
Terminal Manager	Pass-Through of Actual Cost	One terminal manager
Bus Operations	\$2.00 per passenger arriving or departing from Pier 78 or Pier 79 from or to a Southern Route terminal in New Jersey, provided that the per passenger charge shall at no time exceed the charge payable by third parties utilizing PIFC's bus service	
Regular Maintenance	Pass-Through of Actual Cost	Two porters dedicated to the Southern Routes
Janitorial Supplies	Pass-Through of Actual Cost	
Unscheduled Maintenance	Pass-Through of Actual Cost	BBFC will bear one-half the cost of the terminal maintenance supervisor (currently Richie Wenzel) and will bear the cost of the terminal maintenance director (currently Ken Favarro) on an as needed basis.
Utilities	Pass-Through of Actual Cost	For telephone and electric charges at the various terminal locations
Security	Pass-Through of Actual Cost	ADT contracts for BBFC terminals only; no personnel costs allocated to BBFC

A - PM SERVICE CHECK LIST - ALLEN MARINES AND OTTERS

PM # _____ Start Date _____
 Vessel _____ Finish Date _____
 Eng. Hrs Port fwd _____ Eng. Hrs Stbd fwd _____ Gen 1 Hrs _____
 Eng. Hrs Port aft (or Center) _____ Eng. Hrs Stbd aft _____ Gen 2 Hrs _____

Employees _____

		PORT		STBD		PORT		STBD	
		FWD	AFT	FWD	AFT	O/B	I/B	O/B	I/B
MAIN ENGINES						JETS			
Coolant Level / Leaks	Check					JHPU Oil Vol & Condition	Check		
Cooling System Supplemental						Intake Flow Path- Blockages	Clear		
Coolant Additive (SCA)	Test / Add					Bearing Housing Oil - Level	Check		
Coolant Conditioner Level	Check					Water Seal - Leaks	Check		
Coolant Protection Level	Check					Steering Cotter Pins	Check		
Hose Condition - Wear	Check					Steering Linkages	Check		
Engine Oil and Filter	Change					Reverse Cylinder Shaft	Grease		
Engine Oil Sample	Obtain					Steering Shaft	Grease		
Engine Oil level / Leaks	Check					Steering Crank	Grease		
Fuel Leaks	Check								
Fuel/Water Sep. Bowl	Drain					FIRE & BILGE PUMP SYSTEMS			
Fuel System Secondary Filter	Replace					Fire Pump Operation 60 PSI	Check		
Fuel and Oil Lines	Ck - Replace					Bilge Pump Operation	Check		
Fuel and Oil Hoses & Clamps	Ck / Replace					Engine Mounted Bilge Pump	Check		
Separator Element	Replace					Hoses and Nozzles	Ck/ Grease		
Spin Filters	Replace					Piping - Leaks & Corrosion	Check		
Racor Filters	Replace					Fire Doors and Dampeners	Check		
Aftercooler Drain Valve	Check/ Clean					Fire and Bilge Alarms	Check		
Battery Electrolyte Level	Check					Fire pump strainers	Clean		
Air Sys./ Exhaust Connections	Ck / Tighten					EMERGENCY LIGHTING			
Engine Breather Pipes	Drain					Automatically Activated	Check		
Engine Air Cleaner Element	Ckn / Replace					Portable	Check		
Alternator Belt	Ck/ Replace					Connection to			
Sea strainers	Check/ Clean					Battery Charger	Check		
GENERATORS						VOIDS AND COMPARTMENTS			
Engine Oil / Lube Oil Filters	Change					Engine Room Wash Down	Clean		
Oil Level / Leaks	Check					Pump Out if Needed	Perform		
Fuel System Secondary Filter	Replace					Fuel Tank and Piping	Check		
Racor Filters	Replace					Water from Fuel Tank	Drain		
Cooling Water Level	Check					Water Tank and Piping	Check		
Sea Strainer	Check / Clean					Exhaust Piping & Flanges	Check		
V-belt Tension & condition	Check								
Electrolyte Level in Batteries	Check					MISCELLANEOUS			
Air Cleaner	Change/Clean					A/C Strainer, others	Clean		

**** After performing the PM service you are expected to report ALL the repairs needed on the boat. Write them down on the other side of this sheet.

B - PM SERVICE CHECK LIST - ALLEN MARINES AND OTTERS

PM # _____ Start Date _____

Vessel _____ Finish Date _____

Eng. Hrs Port fwd _____ Eng. Hrs Stbd fwd _____ Gen 1 Hrs _____

Eng. Hrs Port aft (or Center) _____ Eng. Hrs Stbd aft _____ Gen 2 Hrs _____

Employees _____

		PORT		STBD			PORT		STBD		
		FWD	AFT	FWD	AFT		O/B	I/B	O/B	I/B	
MAIN ENGINES						GENERATOR SET (Cont.)					
Coolant Level / Leaks	Check					Cooling System	Ck/Flush				
Cooling System Supplemental						Coolant Conditioner	Check				
Coolant Additive (SCA)	Test / Add					Coolant Protection Level	Check				
Coolant Conditioner Level	Check					Coolant Hoses & Clamps	Check				
Coolant Protection Level	Check					Impeller Water Pump	Change				
Hose Conditioner - Wear	Check					Fuel Sys Secondary Filter	Replace				
Engine Oil and Filter	Change					Racor Filters	Replace				
Engine Oil Sample	Obtain					Sea Strainer	Check / Clean				
Engine Oil level / Leaks	Check					V-belts Tension/Condition	Check				
Fuel Leaks	Check					Electrolyte Level					
Fuel System Primary Filter / Water						in Batteries	Check				
Fuel/Water Sep. Bowl	Drain					Air Cleaner	Change/Clean				
Fuel System Secondary Filter	Replace					Batteries	Load/ Clean/Test				
Fuel and Oil Lines	Ck-Replace					Out Put	Check				
Fuel & Oil Hoses & Clamps	Ck-Replace					Connections	Check				
Separator Element	Replace					JETS					
Racor Filters	Replace					JHPU Oil Filter	Replace				
Aftercooler Drain Valve	Ck/ Clean					Reservoir Breather	Clean/Change				
Battery Electrolyte Level	Check					Bearing Housing- Oil	Change				
Air Sys./ Exhaust Connections	Tighten					JHPU Oil Cooler	Ck Integrity				
Engine Breather Pipes	Drain					Oil Level Sensor	Ck Operation				
Eng Air Cleaner Element	Clean/Chge					Temperature Sensor	Ck Operation				
Alternator Belt	Ck/ Replace					JHPU V-belts	Ck Tension				
Throttle Linkage Wear	Check					JHPU Oil Vol & Condition	Check				
All Engine Gauges	Check					Intake Flow Path	Clear Blockages				
All Engine Electrical Wiring	Check					Water Seal - Leaks	Check				
Starter Motor Mounting	Check					Steering Linkages	Check				
Oil Pressure @ Idle	Record					Reverse Cylinder Shaft	Grease				
Oil Pressure Hot	Record					System Hoses	Ck Integrity				
High & Low Engine RPM	Record					Reverse Cylinder & Hoses	Check				
Vent Fan Operation	Check					Steering Cylinder & Hoses	Check				
Engine Mount	Ck/Tighten					Steering Shaft Bushes	Check				
Sea strainers	Clean					Drive Shaft	Ck/Lubricate				
GENERATOR SET						Piping - Leaks & Corrosion	Check				
Valve Clearance	Check					External Anodes	Check				
Injectors	Check					Internal Anodes	Check				
Engine Oil Filters	Change					Back-Up' Operation	Ck Op				
Oil Level / Leaks	Check					Joystick Helm Module	Check Boot				

		PORT		STBD				PORT		STBD	
		FWD	AFT	FWD	AFT	O/B	I/B	O/B	I/B		
FIRE & BILGE PUMP SYSTEMS						SWITCHBOARDS AND DISTRIBUTION PANELS					
Fire Pump Operation 60 PSI	Check					Circuits And Elec. Equip.	Check				
Bilge Pump Operation	Check					Protective Covering	Check				
Engine Mounted Bilge Pump	Check					Drip Shield Over Panels	Check				
Hoses and Nozzles	Ck/ Grease					Overcurrent Protection	Check				
Piping - Leaks & Corrosion	Check					Rubber Floor Matting	Check				
Fire Doors and Dampeners	Check					CABLE, WIRING, AND RECEPTACLES					
Fire and Bilge Alarms	Check					Wire Condition	Check				
EMERGENCY LIGHTING						Splices	Check				
Automatically Activated	Check					Connectors	Check				
Portable	Check					Supports Every 24"	Check				
Connection to Battery Charger	Check					Overcurrent Protection	Check				
VOIDS AND COMPARTMENTS						MOTORS AND CONTROLLERS					
Engine Room Wash Down	Clean					Relays / Switches	Check				
Pump Out if Needed	Perform					Overcurrent Protection	Check				
Fuel Tank and Piping	Check					MISCELLANEOUS					
Water from Fuel Tank	Drain					Flags if Torn or Dirty	Replace				
Water Tank and Piping	Check					Food Counter & Outlets	Check				
Exhaust Piping & Flanges	Check					FRESH WATER SYSTEM					
MISCELLANEOUS:						Syst. Operation - Leaks	Check				
Strainers	Clean					Filter	Change				
PILOT HOUSE						UPPER AND LOWER DECKS & CABINS					
Gauges and Alarms	Check					Signage - Stencils	Check				
Throttle and Shift Controls	Check					Life Jackets	Check				
Radios, Radar & Intercoms	Check					Fire Equipment	Check				
Panels, Spot & Flood Lights	Check					Float Lights and Lines	Check				
Horns and Bells	Check					Rafts & Flotation Rings	Check				
Windshield and Wipers	Check					Railings and Gates	Inspect				
Navigation Lights	Check					Ground Tackle/Hardware	Check				
Emergency Battery	Check					All Seats and Mounts	Check				
Emergency Lighting	Check					All Bits and Cleats	Check				
Fire and Bilge Alarms	Check					Interior & Exterior Lights	Check				
Sewage System Operation	Check					Condition of Windows	Check				
Compartment Lighting	Check					Loose Panels	Tighten				
Radio / Navigation Gear	Check					Loose Fasteners	Tighten				
AIR CONDITIONING SYS.						Operation of Heads	Check				
Filter	Clean/Change					Doors and Latches	Check				
PRIMARY POWER LIGHTS											
Main Cabin Lights	Check										
Pilot House Lights	Check										
Engine Room Lights	Check										
Deck Lights	Check										

****After performing the PM service you are expected to report ALL the repairs needed on the boat. Write them down on the other side of this sheet.**

C - PM SERVICE CHECK LIST - ALLEN MARINES AND OTTERS

PM # _____ Start Date _____
 Vessel _____ Finish Date _____
 Eng. Hrs Port fwd _____ Eng. Hrs Stbd fwd _____ Gen 1 Hrs _____
 Eng. Hrs Port aft (or Center) _____ Eng. Hrs Stbd aft _____ Gen 2 Hrs _____

Port Engineer _____

		PORT STBD					PORT STBD				
		FWD	AFT	FWD	AFT		O/B	I/B	O/B	I/B	
MAIN ENGINES						Alternator	Inspect				
Engine	Clean					Alternator Belt	Check/ Replace				
Heat Exchanger	Inspect					Zinc Rods	Replace				
Turbo Charger	Inspect					Throttle Linkage Wear	Check				
Aux. Water Pump (Bronze)	Inspect					All Engine Gauges	Check				
Coolant Extender(ELC)	Add					All Eng Electrical Wiring	Check				
Water Temperature Regulator	Replace					Starter Motor Mounting	Check				
Crankshaft Vibration Damper	Inspect					Oil Pressure @ Idle	Record				
Engine Valve Lash	Ck / Adjust					Oil Pressure Hot	Record				
Engine Valve Rotators	Inspect					High & Low Engine RPM	Record				
Starting Motor	Inspect					Vent Fan Operation	Check				
Water Pump	Inspect					Engine Mounts	Check/Tighten				
Coolant Level / Leaks	Check										
Cooling System Supplemental						GENERATORS					
Coolant Additive (SCA)	Test / Add					Fuel Injection Pump	Check				
Coolant Conditioner Level	Check					Heat Exchanger	Ck/Clean				
Coolant Protection Level	Check					Valve Clearance	Check				
Hose Conditioner - Wear	Check					Injectors	Check				
Engine Oil and Filter	Change					Engine Oil Filters	Change				
Engine Oil Sample	Obtain					Oil Level / Leaks	Check				
Engine Oil level / Leaks	Check					Cooling System	Check / Flush				
Reserve Oil & Coolant Tanks	Fill					Coolant Conditioner	Check				
Fuel Leaks	Check					Coolant Protection Level	Check				
Fuel System Primary Filter / Water						Coolant Hoses & Clamps	Check				
Fuel/Water Sep. Bowl	Drain					Impeller in Water Pump	Change				
Fuel System Secondary Filter	Replace					Fuel Sys Primary Filter	Replace				
Fuel Tank Water & Sediment	Drain					Fuel Sys Secondary Filter	Replace				
Fuel and Oil Lines	Ck-Replace					Racor Filters	Replace				
Fuel/Oil Hoses & Clamps	Ck-Replace					Oil Bath Air Filter	Check / Replace				
Separator Element	Replace					Sea Strainer	Check / Clean				
Spin Filters	Replace					V-belts Tension	Check				
Racor Filters	Replace					Electrolyte Level in Batt	Check				
Aftercooler Drain Valve	Check/ Clean					Air Cleaner	Change/Clean				
Aux. Water Pump (Rubber)	Inspect					Zinc Electrodes	Replace				
Battery Electrolyte Level	Check					Insulation Resistance	Measure				
Air Sys/Exhaust Connections	Ck/Tighten					Rectifier assembly	Ck / Clean				
Upper Deck Filters	Ck-Replace					Automatic Volt. Regulator	Ck / Clean				
Engine Breather Pipes	Drain					Bearing Housing O-Ring	Check				
Air Cleaner Element	Clean/Replace					Batteries	Clean/Load & Test				

		PORT		STBD				PORT		STBD	
		FWD	AFT	FWD	AFT			O/B	I/B	O/B	I/B
Out Put	Check					VOIDS AND COMPARTMENTS					
Connections	Check					Engine Room	Wash Down				
JETS						Pump Out if Needed	Perform				
Complete Jet Unit	Ck/ Repair					Fuel Tank and Piping	Check				
JHPU Oil	Change					Water from Fuel Tank	Drain				
JHPU Oil Filter	Replace					Water Tank and Piping	Check				
Reservoir Filler / Breather	Clean/Change					Exhaust Piping & Flanges	Check				
Bearing Housing- Oil	Change					Sewage Sys Operation	Check				
JHPU Oil Cooler	Ck Integrity					Compartment Lighting	Check				
Bearing Housing Oil Cooler	Ck Integrity					Bottom Cleaning	Perform				
Oil Level Sensor	Ck Operation					PILOT HOUSE					
Temperature Sensor	Ck Operation					Gauges and Alarms	Check				
JHPU V-belts	Ck Tension					Throttle & Shift Controls	Check				
Intake Flow Path- Blockages	Clear					Radios, Radar, Intercoms	Check				
Water Seal - Leaks	Check					Panels/Spot/Flood Lights	Check				
Steering Cotter Pins	Check					Horns and Bells	Check				
Steering Linkages	Check					Windshield and Wipers	Check				
Reverse Cylinder Shaft	Grease					Navigation Lights	Check				
Steering Shaft	Grease					Emergency Battery	Check				
Steering Crank	Grease					Emergency Lighting	Check				
Screen Rake & Bearings	Ck/Lubricate					Fire and Bilge Alarms	Check				
System Hoses	Ck Integrity					AIR CONDITIONING SYS.					
Reverse Cylinder & Hoses	Check					Filter	Clean/Change				
Steering Cylinder & Hoses	Check					PRIMARY POWER LIGHTS					
Steering Shaft Bushes	Check					Main Cabin Lights	Check				
Drive Shaft	Ck/Lubricate					Pilot House Lights	Check				
Piping - Leaks & Corrosion	Check					Engine Room Lights	Check				
External Anodes	Check					Deck Lights	Check				
Internal Anodes	Check					SWITCHBOARDS AND DISTRIBUTION PANELS					
Back-Up Operation	Ck Operation					Circuits And Elec. Equip.	Check				
Joystick Helm Module	Check Boot					Protective Covering	Check				
FIRE & BILGE PUMP SYSTEMS						Drip Shield Over Panels	Check				
Bearings/Frames	Grease					Overcurrent Protection	Check				
Fire Pump Operation 60 PSI	Check					Rubber Floor Matting	Check				
Bilge Pump Operation	Check					CABLE, WIRING, AND RECEPTACLES					
Engine Mounted Bilge Pump	Check					Wire Condition	Check				
Hoses and Nozzles	Ck Grease					Splices	Check				
Piping - Leaks & Corrosion	Check					Connectors	Check				
Fire Doors and Dampeners	Check					Supports Every 24"	Check				
Fire and Bilge Alarms	Check					Overcurrent Protection	Check				
EMERGENCY LIGHTING											
Automatically Activated	Check										
Not Portable	Check										
Connection to Battery Charger	Check										

MOTORS AND CONTROLLERS

Relays Check
 Switches Check
 Overcurrent Protection Check

MISCELLANEOUS

Flags if Torn or Dirty Replace
 Food Counter & Outlets Check
 Strainers Clean

FRESH WATER SYSTEM

Syst. Operation - Leaks Check
 Filter Change

BLOWERS

Bearing and Linkage Lubricate
 Damper - Close Manually Check
 Buildup of foreign material Ck / Clean
 Vibration and Wear Check

RADAR

Loosened /Corroded Bolts Check
 Antenna Cables Check
 Display Unit Connections Ck/Tighten
 Ground Terminal Ck/Tighten

UPPER AND LOWER DECKS & CABINS

Signage - Stenciles	Check	<input type="checkbox"/>
Life Jackets	Check	<input type="checkbox"/>
Fire Equipment	Check	<input type="checkbox"/>
Float Lights and Lines	Check	<input type="checkbox"/>
Rafts & Flotation Rings	Check	<input type="checkbox"/>
Railings and Gates	Inspect	<input type="checkbox"/>
Ground Tackle/Hardware	Check	<input type="checkbox"/>
All Seats and Mourt	Check	<input type="checkbox"/>
All Bits and Cleats	Check	<input type="checkbox"/>
Interior & Exterior Lights	Check	<input type="checkbox"/>
Condition of Windows	Check	<input type="checkbox"/>
Loose Panels	Tighten	<input type="checkbox"/>
Loose Fasteners	Tighten	<input type="checkbox"/>
Operation of Heads	Check	<input type="checkbox"/>
Doors and Latches	Check	<input type="checkbox"/>
Hatches, and Gaskets	Check	<input type="checkbox"/>
Windshield Wipers & Blades	Ck / Change	<input type="checkbox"/>

****After performing the PM service you are expected to report ALL the repairs needed on the boat. Write them down on the other side of this sheet.**

D - PM SERVICE CHECK LIST - ALLEN MARINES AND OTTERS

PM # _____

Start Date _____

Vessel _____

Finish Date _____

Eng. Hrs Port fwd _____

Eng. Hrs Stbd fwd _____

Gen 1 Hrs _____

Eng. Hrs Port aft (or Center) _____

Eng. Hrs Stbd aft _____

Gen 2 Hrs _____

Port Engineer _____

		PORT		STBD				PORT		STBD	
		FWD	AFT	FWD	AFT			O/B	I/B	O/B	I/B
MAIN ENGINES											
Engine	Clean					Alternator	Inspect				
Heat Exchanger	Inspect					Alternator Belt	Ck/ Replace			"	
Turbo Charger	Inspect					Zinc Rods	Replace				
Aux. Water Pump (Bronze) ...	Inspect					Throttle Linkage Wear	Check				
Coolant Extender(ELC)	Add					All Engine Gauges	Check				
Water Temperature Regulator	Replace					All Engine Electrical Wiring	Check				
Crankshaft Vibration Damper	Inspect					Starter Motor Mounting	Check				
Engine Valve Lash	Ck / Adjust					Oil Pressure @ Idle	Record				
Engine Valve Rotators	Inspect					Oil Pressure Hot	Record				
Starting Motor	Inspect					High & Low Engine RPM	Record				
Water Pump	Inspect					Vent Fan Operation	Check				
Coolant Level / Leaks	Check					Engine Mounts	Ck/Tighten				
Cooling System Supplemental						GENERATORS					
Coolant Additive (SCA)	Test / Add					Fuel Injection Pump	Check				
Coolant Conditioner Level	Check					Heat Exchanger	Ck/Clean				
Hose Conditioner - Wear	Check					Valve Clearance	Check				
Engine Oil and Filter	Change					Injectors	Check				
Engine Oil Sample	Obtain					Engine Oil / Filters	Change				
Engine Oil level / Leaks	Check					Oil Level / Leaks	Check				
Reserve Oil & Coolant Tanks	Fill					Cooling System	Ck/Flush				
Fuel Leaks	Check					Coolant Conditioner	Check				
Fuel System Primary Filter / Water						Coolant Protection Level	Check				
Fuel/Water Sep. Bowl	Drain					Coolant Hoses and Clamps	Check				
Fuel System Secondary Filter	Replace					Impeller in Water Pump	Change				
Fuel Tank Water & Sediment	Drain					Fuel System Primary Filter	Replace				
Fuel and Oil Lines	Ck/Replace					Fuel Sys Secondary Filter	Replace				
Fuel and Oil Hoses & Clamps	Ck/Replace					Racor Filters	Replace				
Separator Element	Replace					Oil Bath Air Filter	Check / Replace				
Spin Filters	Replace					Sea Strainer	Check / Clean				
Racor Filters	Replace					V-belts Tension	Check				
Aftercooler Drain Valve	Ck/Clean					Electrolyte Level in Batteries	Check				
Aux. Water Pump (Rubber)	Inspect					Air Cleaner	Change/Clean				
Battery Electrolyte Level	Check					Zinc Electrodes	Replace				
Air Sys./ Exhaust Connections	Ck/Tighten					Insulation Resistance	Measure				
Upper Deck Filters	Ck/Replace					Rectifier assembly	Ck / Clean				
Engine Breather Pipes	Drain					Automatic Volt. Regulator	Ck / Clean				
Engine Air Cleaner						Bearing Housing O-Ring	Check				
Element	Clean/Replace					Batteries	Clean/Load & Test				
						Out Put	Check				
						Connections	Check				

DESCRIPTION		PORT		STBD		DESCRIPTION		PORT		STBD	
		FWD	AFT	FWD	AFT			FWD	AFT	FWD	AFT
JETS											
Complete Jel Unit & JHPU	Ck/ Repair					Water from Fuel Tank	Drain				
JHPU Oil	Change					Water Tank and Piping	Check				
JHPU Oil Filter	Replace					Exhaust Piping & Flanges	Check				
Reservoir Filler / Breather	Clean/Change					Sewage System Operation	Check				
Bearing Housing- Oil	Change					Compartment Lighting	Check				
JHPU Oil Cooler	Ck Integrity					Bottom Cleaning	Perform				
Bearing Housing Oil Cooler	Ck Integrity					PILOT HOUSE					
Oil Level Sensor	Ck Operation					Gauges and Alarms	Check				
Temperature Sensor	Ck Operation					Throttle and Shift Controls	Check				
JHPU V-belts	Ck Tension					Radios, Radar & Intercoms	Check				
Intake Flow Path- Blockages	Clear					Panels, Spot & Flood Lights	Check				
Water Seal - Leaks	Check					Horns and Bells	Check				
Steering Cotter Pins	Check					Windshield and Wipers	Check				
Steering Linkages	Check					Navigation Lights	Check				
Reverse Cylinder Shaft	Grease					Emergency Battery	Check				
Steering Shaft	Grease					Emergency Lighting	Check				
Steering Crank	Grease					Fire and Bilge Alarms	Check				
Screen Rake & Bearings	Ck/Lubricate					AIR CONDITIONING SYS.					
System Hoses	Ck Integrity					Filter	Clean/Change				
Reverse Cylinder & Hoses	Check					PRIMARY POWER LIGHTS					
Steering Cylinder & Hoses	Check					Main Cabin Lights	Check				
Steering Shaft Bushes	Check					Pilot House Lights	Check				
Drive Shaft	Ck/Lubricate					Engine Room Lights	Check				
Piping - Leaks & Corrosion	Check					Deck Lights	Check				
External Anodes	Check					SWITCHBOARDS AND DISTRIBUTION PANELS					
Internal Anodes	Check					Circuits And Elec. Equip.	Check				
Back-Up Operation	Ck Operation					Protective Covering	Check				
Joystick Helm Module	Check Boot					Drip Shield Over Panels	Check				
FIRE & BILGE PUMP SYSTEMS											
Bearings/Frames	Grease					Overcurrent Protection	Check				
Fire Pump Operation 60 PSI	Check					Rubber Floor Matting	Check				
Bilge Pump Operation	Check					CABLE, WIRING, AND RECEPTACLES					
Engine Mounted Bilge Pump	Check					Wire Condition	Check				
Hoses and Nozzles	Ck/ Grease					Splices	Check				
Piping - Leaks & Corrosion	Check					Connectors	Check				
Fire Doors and Dampeners	Check					Supports Every 24"	Check				
Fire and Bilge Alarms	Check					Overcurrent Protection	Check				
Service Valves	Perform					MOTORS AND CONTROLLERS					
Sea Chest Valve (Dry Dock)	Check					Relays	Check				
EMERGENCY LIGHTING											
Automatically Activated	Check					Switches	Check				
Not Portable	Check					Overcurrent Protection	Check				
Connection to Battery Charger	Check					MISCELLANEOUS					
VOIDS AND COMPARTMENTS											
Engine Room Wash Down	Clean					Flags If Torn or Dirty	Replace				
Pump Out if Needed	Perform					Food Counter & Outlets	Check				
Fuel Tank and Piping	Check					Strainers	Clean				

FRESH WATER SYSTEM

Syst. Operation - Leaks Check

Filter Change

RADAR

Loosened /Corroded Bolts Check

Antenna Cables Check

Display Unit Connections Ck/Tighten

Ground Terminal Ck/Tighten

UPPER AND LOWER DECKS & CABINS

Signage - Stencils Check

Life Jackets Check

Fire Equipment Check

Float Lights and Lines Check

Rafts & Flotation Rings Check

Railings and Gates Inspect

Ground Tackle/Hardware Check

All Seats and Mounts Check

All Bits and Cleats Check

Interior & Exterior Lights Check

Condition of Windows Check

Loose Panels Tighten

Loose Fasteners Tighten

Operation of Heads Check

Doors and Latches Check

Doors, Hatches, and Gaskets Check

Windshield Wipers & Blades Ck / Change

AC / FURNACE (ANNUAL)

Oil Supply Line Filter Replace

Pump Strainer Clean

Nozzle Replace

Electrodes Clean/Change

Air Setting Reset

Smoke and Combustion Check

cables and connectors Inspect

Blower and air control Clean

Chimney and pipes Inspect

Coil Check / Clean

Drain Pan - Drain Line Check/Clean

HEADS

Air-Operated Flush Valve Lubricate

BLOWERS

Bearing and Linkage Lubricate

Damper - Close Manually Check

Buildup of foreign material Ck / Clean

Vibration and Wear Check

Pressure Test Perform

Damper Operation Check

****After performing the PM service you are expected to report ALL the repairs needed on the boat. Write them down on the other side of this sheet.**

ADDENDUM

December 17, 2008

This is an Addendum to the Assignment Agreement dated March 16, 2005 (the "Original Agreement") between the Port Authority of NY & NJ ("Authority"), Port Imperial Ferry Corporation ("PIFC"), as Assignor, and Billybey Ferry Company, LLC ("BBFC"), as Assignee, with respect to (i) the Ferry Transportation Agreement dated November 3, 1988 between the Authority and PIFC and (ii) the Agreement dated November 4, 2003 for Pier 11 Service between the Authority and PIFC. The purpose of this Addendum is to clarify BBFC and Authority responsibilities for an operation, maintenance and repair program ("Terminal Maintenance Program") for the Authority's new Battery Park Ferry Terminal (the "New Terminal") as provided for in § 3.10(a) of the Original Agreement.

Except as provided under "Operations" BBFC's performance under this Addendum shall begin on the date for commencement of ferry operations at the New Terminal ("Commencement Date") and shall continue so long as the Original Agreement remains in effect. Commencement Date will be designated by the Authority.

The parties agree to construe this Addendum as a clarification of and not an addition to the Original Agreement, so that BBFC's performance under this Addendum will not, except as specifically noted herein, entitle BBFC to compensation beyond that provided for in the Original Agreement.

Facility Operation/Maintenance

The parties agree that details of the Terminal Maintenance Program and the parties' responsibilities under it (including details of the inspections, repairs and other tasks to be performed or coordinated by BBFC) have been memorialized in writing in a document dated November 7, 2008 and called the "Maintenance Manual" (Exhibit ##). BBFC shall at all times carry out the provisions and requirements of the Maintenance Manual and shall omit no act required thereunder. BBFC further agrees to perform its work completely and efficiently regardless of how the Maintenance Manual and this Addendum may be written and organized. The Port Authority and BBFC may, from time to time after the New Terminal becomes operational, supplement or amend the Maintenance Manual to reflect unanticipated circumstances or new or changed conditions that arise during such operations. BBFC shall not unreasonably withhold its consent to any supplement or amendment proposed by the Authority. The responsibility for the cost of any such inspections, repairs and other tasks is governed by this Addendum.

The parties agree to cooperate to achieve the Terminal Maintenance Program's several goals which include (1) to operate, maintain and preserve all material structures of the New Terminal safe and in good repair, condition and working order, (2) to from time to time and as necessary or prudent to perform such repairs and overhauls (interior and exterior) to non-structural building elements (including operating and mechanical systems, communications, security, plumbing, electrical systems, heating/ventilation/air conditioning systems and docking systems) as may be necessary to maintain them in good repair, condition and working order, (3) to maintain all areas within the New Terminal clean and in an orderly condition and appearance, together with all fixtures, improvements, furnishings, equipment and personal property located in or on the New Terminal and (4) to achieve uninterrupted operation of the New Terminal, all in accordance with the Maintenance Manual and this Addendum.

BBFC shall at all times comply with the requirements of all Federal, State and local laws, rules, codes and regulations that would apply if the Authority were a private corporation and with the requirements of any contractor's or manufacturer's warranties applicable to the New Terminal. The Authority will make available to BBFC copies of any insurance policies covering any part of the New Terminal and BBFC shall comply with their requirements.

BBFC shall allow the Authority at any time, without prior notice and at the Authority's sole expense, to perform inspections, including structural inspections, of the New Terminal.

Unless otherwise instructed by the Authority, BBFC shall coordinate all work under this agreement with and shall perform under the direction of a "Ferry Transportation General Manager" ("Manager") or his successor or designee. The Authority will designate the Manager. BBFC shall comply with the Manager's instructions and decisions related to the operations or maintenance of this facility. The Manager will be the judge on behalf of the Authority (1) of BBFC's compliance with the requirements of this Addendum and of the Maintenance Manual and (2) of the success of the Terminal Maintenance Program.

BBFC shall perform inspections and shall complete Maintenance Manual Inspection Checklists as they may be scheduled to be performed weekly, monthly, quarterly, semi-annually and annually as set forth in the Maintenance Manual. In addition:

- BBFC shall not remove terminal slips from service for planned routine maintenance or major overhauls during peak period operations, unless posted headways can be maintained and/or Authority approval is received in writing.
- BBFC shall maintain copies of all weekly employee maintenance time sheets (indicating hours worked) and of all maintenance records and shall upon request make them available to the Authority.
- BBFC shall use its best efforts and shall practice due diligence to quickly complete breakdown repairs (including repairs to inoperative passenger amenity features) and shall give breakdown repairs priority over routine inspection, repair and overhaul programs.

- BBFC shall propose for the Authority's review and approval an adequate inventory of spare parts and tools for use to efficiently maintain the New Terminal. BBFC shall situate and continuously maintain this inventory within the Port District (as defined in § 6403, McKinney's Consolidated Laws of New York, Book 65, Page 13) at no cost to the Authority and shall also promptly replace lost or damaged parts or tools at no cost to the Authority.
- BBFC shall in accordance with applicable environmental rules, regulations and standards dispose of all garbage, including liquid or solid refuse.
- In the event of spillage, breakage, damage or any condition which presents a hazard to persons or property, BBFC shall immediately take any and all precautions to safeguard the public, including but not limited to the erection of barricades, the posting of signs and/or personnel, the securing of the New Terminal and/or the performance of other actions to prevent injury to persons or property and shall immediately advise the Authority of such conditions and the actions taken.
- BBFC shall upon the Authority's request and with the Authority's concurrence promulgate and enforce reasonable rules and regulations (consistent with the Original Agreement and this Addendum) for use of the New Terminal and the conduct of its occupants and users.

Costs

BBFC shall bear all costs and expenses of the inspections, cleanings and routine repairs contemplated by the Maintenance Manual and of the supplies (for example, fluids and lubricants) required in connection therewith, except for any such items as are covered by warranties or other undertakings by one or more of the contractors who constructed the New Terminal for the Authority. The Authority will cooperate with BBFC in obtaining performance by and pursuing remedies against such contractors pursuant to such warranties and other undertakings. Annexed hereto as Schedule A is a list and description of all such warranties. BBFC acknowledges that the Authority has delivered to BBFC copies of the warranties and contractors' undertakings.

BBFC shall at its own cost and expense maintain and repair individual ferry floats, ramps and fenders. Subject to the Authority's prior approval, BBFC shall arrange for and perform any required replacement of such individual ferry floats, ramps and fenders but the cost thereof will be borne by the Authority.

Except in cases of BBFC's negligence, the Authority will bear without limitation the cost and expense for all labor and materials required for structural repairs, replacement and non-routine repairs and all for tasks the costs of which are not specifically assumed by BBFC in this Addendum. Instances of work of this nature will be designated "Extra Work Items." Extra Work Items shall include, for example:

1. Barge and structural inspection, maintenance, repair and replacement
2. Inspection and non-routine repair or replacement of marine and subsurface structures, fender systems, racks, pier systems, ramps and gangways
3. Repair or replacement of damaged glass except to the extent such damage is the result of the negligence of BBFC
4. Inspection, repair and replacement of roof and membrane canopy
5. Underwater work or work requiring the utilization of a crane

The Authority will at its discretion (1) perform an Extra Work Item itself, (2) retain a third party to perform an Extra Work Item or (3) invite BBFC to submit a proposal to perform part or all of an Extra Work Item. In the case of (1) or (2) BBFC will at no additional cost to the Authority coordinate and cooperate with the Authority or with the third party. In the case of (3) the parties agree to negotiate in good faith to establish fair compensation for BBFC.

Nothing herein shall preclude BBFC from identifying what it believes are necessary structural repairs and replacements and non-routine repairs and from proposing to classify them as Extra Work Items of type (3); but classification as Extra Work Items shall be and remain the Authority's prerogative.

Cleaning and General Maintenance

BBFC shall, at its sole cost and expense, regularly perform cleaning and maintenance of the New Terminal in accordance with the schedules set forth in the Maintenance Manual. Notwithstanding the provisions of the Maintenance Manual, BBFC shall perform cleaning and maintenance so as to meet the requirements of all health and sanitation codes and shall conform to the standards set forth below. Cleaning and maintenance shall include but shall not be limited to:

- Trash collection and removal
- Floor sweeping and mopping
- Floor cover cleaning
- Window cleaning
- Maintenance of signage and information kiosks
- Cleaning restrooms
- Graffiti removal

Maintenance Standards

Cleaning – BBFC shall perform cleaning and maintenance so as to maintain the New Terminal neat, orderly, sanitary and free of litter, oil and dust. Cleaning shall include but not be limited to:

- Sweeping and wet-mopping the entire terminal, emptying all garbage cans and clearing or cleaning all debris from seats in accordance with the schedules set forth in the Maintenance Manual.

- Continuous cleaning and policing during terminal operating periods. Policing is defined as removing all papers, coffee cups, etc. from floors and seats, cleaning any spills or accidents and sweeping up debris.
- Snow and ice removal in all areas for which BBFC is responsible, including the New Terminal and passenger gangways/walkways leading to and from the Battery Park City esplanade.
- Keeping terminals free from stored supplies and tools in publicly accessible areas.
- Washing of all windows on the inside and outside of the New Terminal by an outside professional service on at least a semi-annual basis and cleaning of accessible portions of the windows by BBFC's regular porter service on a regular basis.

All work performed by BBFC shall be at least equal in quality and class to the original work on the New Terminal.

Operations

The Authority will notify BBFC at least 30 days prior to Commencement Date (but not before the Authority obtains a temporary certificate of occupancy for the New Terminal) to prepare to begin performance under this Addendum. Following receipt of such notice, the Authority and BBFC will jointly develop a punchlist of construction and operational issues and will use their best efforts to promptly address the punchlist items so that unperformed punchlist items will interfere with BBFC's operations as little as possible (BBFC has submitted a preliminary punchlist of even date herewith which specifies the manner in which the items listed therein will be addressed). The Authority will thereafter pursue with reasonable diligence and at its sole cost and expense the issuance of a permanent certificate of occupancy for the New Terminal. The New Terminal will include concession space for BBFC (or its designee) which the Authority will deliver to BBFC in accordance with the plans therefor which will require BBFC to arrange and pay for final fit out only. The installation, equipping and fit out and use of the concession space will require the Authority's approval.

BBFC shall not permit any third party ferry operator to utilize the New Terminal unless such operator has entered into the form of Landing Agreement required under the Original Agreement and remains in compliance with the terms thereof. BBFC will comply with all provisions in the Original Agreement regarding the establishment of new landing fees at the time the New Terminal is operational.

Documentation/Plans

The parties acknowledge that BBFC has prepared and submitted to the United State Coast Guard for approval a security plan for the New Terminal, that Coast Guard approval of the security plan was received on August 26, 2008 and that the security plan has also been approved by the Authority. In the event that the New Terminal must be repaired or modified in order to recover or maintain Coast Guard approval the parties agree to treat such repairs or modifications as Extra Work Items.

The Authority hereby represents and warrants to BBFC that the New Terminal, when delivered to BBFC for operations, will be in compliance with all Federal, State and local laws, rules, codes and regulations that would apply if the Authority were a private corporation, including without limitation all building and construction codes and all requirements of law pertaining to accommodations for persons with disabilities, except to the extent such loss is due to the failure of BBFC or its vendors to perform their responsibilities hereunder.

The Authority further agrees to respond to communications relating to and agrees to assume responsibility for any and all of the following:

- a. penalties, fines, settlements
- b. claims for damages, injuries and losses and
- c. demands, expenses and judgments

("losses") arising from (i) any Extra Work Items proposed by BBFC but rejected by the Authority, (ii) the original design or construction of the New Terminal and (iii) non-compliance with all Federal, State and local laws, rules, codes and regulations that would apply if the Authority were a private corporation, including without limitation all building and construction codes and all requirements of law pertaining to accommodations for persons with disabilities, except to the extent such loss is due to the failure of BBFC or its vendors to perform their responsibilities hereunder.

In the event that the New Terminal must be repaired or modified in order to recover or maintain code compliance the parties agree to treat such repairs or modifications as Extra Work Items, except that when repairs or modifications are made necessary by the failure of BBFC or its vendors to perform their responsibilities hereunder, BBFC shall perform the repairs or modifications at no cost to the Authority.

Emergency Procedures/Security

BBFC shall notify the Manager as immediately as possible (but in no case more than twenty-four hours) after the occurrence of any emergency and shall act immediately (through the erection of barricades, the posting of signs, the assignment of personnel, the securing of the area and/or other such actions) to prevent injury to persons and property. BBFC shall promptly notify the Authority of its actions taken in response to such emergency.

The Authority has installed an Access Control and CCTV System for the New Terminal in accordance with plans therefor (Contract Drawings ES004 and ES006 pursuant to Contract FR-975.002) which the Authority will cause to be operational prior to Commencement Date. BBFC shall, at its own cost and expense, engage a monitoring service for such System. BBFC shall periodically inspect such System in accordance with the Maintenance Manual.

Miscellaneous

Any inconsistency between the terms of this Addendum and the Original Agreement with respect to the subject matter hereof will be governed by this Addendum. In case of any inconsistency between the terms of this Addendum and the Maintenance Manual the more stringent requirement shall govern.



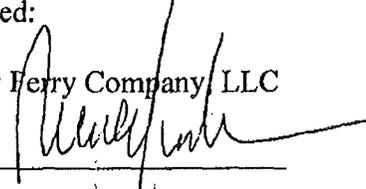
Francis A. DiMola
Director, Real Estate Department



O.K. AS TO FORM #.

Concurred:

Billybey Ferry Company/LLC

By: 

Title C.F.O.

Date 12/19/08

May 22, 2002

(973) 961-6600

New York Waterways

RE: Supplemental Agreement to 1988 Ferry Transportation Agreement between the Arcorp/Hartz joint venture and the Port Authority

Gentlemen:

1. This is a deemed Supplemental Agreement to the above referenced agreement.
2. As a result of the September 11, 2001 terrorist attack on the World Trade Center, which crippled the lower Manhattan transportation system, including the PATH train station and initially restricted use of the World Financial Center ferry terminal, the States of New York and New Jersey, The Port Authority of NY & NJ and the City of New York have become increasingly concerned with the need to provide alternate methods of commuter service. The Port Authority of NY & NJ, with the assistance of NY Waterway, focused on the utilization of existing ferry service to immediately provide enhance commuter transportation for the period of time until the PATH service to lower Manhattan is restored.

Initially the Port Authority of NY & NJ constructed a new ferry terminal at Pier A, on the west side of lower Manhattan, which currently serves NY Waterway ferry services from Hoboken and several locations in Jersey City. These services, along with other ferry routes by NY Waterway have provided critical alternative transportation to thousands of commuters who prior to September 11, used PATH.

The Port Authority of NY & NJ, working jointly with the City of New York, has applied for a Federal Emergency Management Agency grant to fund an additional ferry service between Hoboken and Pier 11 and a ferry "circulator" between Pier 11 and the World Financial Center and enhancement of the Hoboken to Battery Park City service and the continuation of the Hoboken to Pier A service, and the Port Authority has obtained a guaranty of funding from the City of New York, copy annexed.

In an effort to continue our close operating relationship developed via the Hoboken Operating Agreement, as well as the spirit of that agreement, NY Waterway was requested to provide these services. The Port Authority of NY & NJ will act as "Sponsoring Agency" for NY Waterway's operation of these services. The Port Authority of NY & NJ is obligated to reimburse NY Waterway within 45 days of receipt of NY Waterway's monthly invoice for the services contracted for under this Supplemental Agreement.

3. The descriptions of the services required (Attachment I – “Description of Weekday Services”) and the costs to be incurred (Attachment II – “Eligible Fees for Billing”) in connection therewith by NY Waterway, including termination costs and NY Waterways right to terminate for non-payment, and the payments to be received By NY Waterway (Attachment III – “Termination Costs”), are annexed hereto.
4. The Port Authority will timely process payment applications submitted by NY Waterway and submit them to SEMO for payment, and promptly remit payments received from FEMA to NY Waterway. In the event FEMA/SEMO payment are delayed or suspended, the Port Authority will apply to the City of New York for such funding and promptly remit funds received from the City to NY Waterway.
5. The terms and conditions of the 1988 Ferry Transportation Agreement are incorporated herein as if set forth herein in full to the extent applicable. Specifically, the insurance and indemnity provisions therein shall be deemed modified to add as additional insureds and additional indemnities, FEMA, the City of New York and New York’s SEMO.
6. The Port Authority may terminate this agreement as to any services upon thirty (30) days written notice to NY Waterway. Except for NY Waterways right to terminate in the event of non-payment, NY Waterway may not terminate this agreement except for material breach of contract.
7. The effective date of this agreement is March 25, 2002. The term of this agreement extends for six months after PATH service is reestablished at the World Trade Center station.
8. This letter and its attachments contains the full agreement of the parties and may be modified or amended only by a writing signed by the parties.

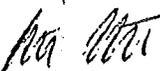
If you are in agreement, please countersign this letter below.

Very truly yours,

The Port Authority of New York and New Jersey

By: 
Titled: 

New York Waterway

By: 
Title: PRESIDENT
Date: 5/23/02

Attachment I

Description of Weekday Services

- Hoboken – World Financial Center
 - i. Peak Periods: 6am to 10am and 2pm to 7pm - 10 minute headway
 - ii. Off-Peak: 10am to 2pm and 7pm to 12am – 15 minute headway

- Hoboken – Pier A
 - i. Peak Periods: 6am to 10am and 2:45pm to 6:45pm - 6 minute headway
 - ii. Off-Peak: 10am to 2:45pm and 6:45pm to 12:15am – 15 minute headway

- Hoboken – Pier 11
 - i. Peak Periods: 7am to 10am and 2:40pm to 6:45pm - 6 minute headway
 - ii. Off-Peak: 10am to 2:45pm and 6:45pm to 9:45pm – 10 minute headway
9:45pm to 12:15am – 15 minute headway

- Pier 11 – World Financial Center
 - i. Peak Periods: 6:22am to 10:30am and 3pm to 7pm – 15 minute headway
 - ii. Off-Peak: 10:30am to 3pm and 7pm to 12am – 20 minute headway

Note: The “Description of Weekday Services” above represents the contracted services. The Port Authority of NY & NJ must approve any additions, changes or modifications by NY Waterway, excluding changes resulting from routine maintenance or emergencies. The Port Authority of NY & NJ, notwithstanding Article 6 of this supplemental agreement, may make any additions, changes or modifications to the above “Description of Weekday Services”.

Attachment II

Eligible Fees for Billing

NY Waterway may bill for additional operating hours, up to 160 hours, associated with providing the services listed in Attachment I over the base weekday services provided by NY Waterway from Hoboken, prior to March 25, 2002.

Listed below, are the base weekday service provided by NY Waterway from Hoboken prior to March 25, 2002:

- Hoboken – World Financial Center
 - i. 6am to 8pm - 30 minute headway
- Hoboken – Pier A
 - i. Peak Periods: 7am to 9am and 4:15pm to 6pm - 5 minute headway
 - ii. Off-Peak: 6am to 7am - 15 minute headway
9am to 10am; 3pm to 4:15pm and 6pm to 7:30pm – 10 minute headway
- Hoboken to Pier A via World Financial Center
 - i. Off-Peak: 7:30pm to 10:30am - 30 minute headway

Eligible Monthly Billing Costs:

1. Additional Hourly Operating Cost per Boat - \$ 459.00 plus a 20% profit = \$ 551.50 per hour
2. Daily Boat Charter Cost up to 10 Boats
3. Less any weekday revenue collected above the computed average weekday monthly revenue for the base services. (Estimated - \$ 1,080,787)

Attachment III

Termination Costs

Ferry	Date of Charter	Termination Date	Charter Days 3/25 – 9/25	Daily Charter Rate
Royal Ms. Belmar	3/25/02	9/25/02	133	\$3,800.00
Athena	3/25/02	5/8/02	N/A	\$4,300.00
Eugina Louise	3/25/02	9/25/02	133	\$1,500.00
Royal Sunshine	3/25/02	9/25/02	133	\$3,500.00
Miss Belmar Princess	3/25/02	9/25/02	133	\$3,500.00
Elsie K Princess	3/25/02	3/29/02	N/A	\$2,500.00
Sea Queen IV	3/27/02	9/25/02	133	\$2,000.00
Seastreak Brooklyn	3/25/02	9/25/02	133	\$4,000.00
American Eagle	3/25/02	9/25/02	133	\$2,000.00
Adventurer	3/29/02	9/25/02	129	\$1,363.44
Night Hawk	4/16/02	9/25/02	117	\$2,440.00
Sea Devil	3/25/02	3/29/02	N/A	\$2,500.00
Arcadia Clipper	5/8/02	9/25/02	102	\$2,000.00

Note: Termination Costs will not be assessed if NY Waterway finds other uses for these ferries. Any additions, changes or modification to the above list must be approved by the Port Authority of NY & NJ.

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THE PORT AUTHORITY OF NY & NJ

GARY
ECONOMIC DEVELOPMENT DEPARTMENT
NEWARK LEGAL CENTER
ONE RIVERFRONT PLAZA, 9TH FLOOR
NEWARK, NEW JERSEY 07102

(201) 595-4510 NEW JERSEY
(212) 435-7000 NEW YORK

May 22, 2002

Mr. Arthur Imperatore, Jr.
President
NY Waterway
Pershing Road
Weehawken, NJ 07087

Dear Arthur:

As a result of a collaborative effort of the Port Authority, the City of New York and the Federal Emergency Management Agency (FEMA), a series of ferry enhancements designed to improve access to lower Manhattan were developed and implemented on March 25, 2002. With regard to the proposed *Supplemental Agreement to the 1988 Ferry Transportation Agreement between the Arcorp/Hartz joint venture and the Port Authority*, I wish to clarify the extent of the Port Authority's financial obligation for NY Waterway's (NYW) compensation for service improvements.

Included within the enhancements were a new service between Hoboken and Pier 11, a new circulator ferry between the World Financial Center at Battery Park City and Pier 11, and increased frequency of service between Hoboken and Battery Park City. FEMA has agreed in concept to fund those operating improvements deemed necessary to effectuate these enhancements. Beyond the FEMA commitment, the City of New York has guaranteed the use of City funds to address any eligible NYW expenses not so reimbursed by FEMA.

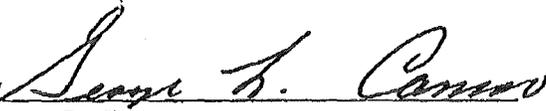
The Port Authority has agreed to serve as project sponsor for the operating services for which FEMA reimbursement is to be sought. In that role, our responsibility shall be limited to the timely processing of NY Waterway (NYW) invoices to the New York State Emergency Management Office (SEMO) and the prompt remittance of payments received from (SEMO) to NYW. In the event a FEMA/SEMO payment is unreasonably delayed or denied, the Port Authority will apply to the City of New York under its guarantee for such payment and promptly remit funds received from the City to NYW.

Notwithstanding any other written or oral agreement or statement to the contrary, between NY Waterway and the Port Authority the Port Authority shall have no financial obligation to NYW for any Waterway operating expenses or other compensation with regard to the operating improvements.

Please indicate your agreement by executing the enclosed copy of this letter below and returning to the undersigned.

Sincerely,

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By 
George L. Cancro
Director
Ferry Transportation

Agreed:

NY WATERWAY

By 
Title PRESIDENT
Date 5/22/02

May 22, 2002

(973) 961-6600

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By: *George A. Cannors*
Titled: *Director*

New York Waterway

By: *AA [Signature]*
Title: *PRESIDENT*
Date: *5/23/02*

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THE PORT AUTHORITY OF NY & NJ

GARY
ECONOMIC DEVELOPMENT DEPARTMENT
NEWARK LEGAL CENTER
ONE RIVERFRONT PLAZA, 9TH FLOOR
NEWARK, NEW JERSEY 07102

(201) 595-4510 NEW JERSEY
(212) 435-7000 NEW YORK

May 22, 2002

Mr. Arthur Imperatore, Jr.
President
NY Waterway
Pershing Road
Weehawken, NJ 07087

Dear Arthur:

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Sincerely,

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By 
George L. Cancro
Director
Ferry Transportation

Agreed:

NY WATERWAY

By 
Title PRESIDENT
Date 5/22/02

MANAGEMENT SERVICES AGREEMENT

BETWEEN

BILLYBEY FERRY COMPANY, LLC

AND

PORT IMPERIAL FERRY CORP.

This Management Services Agreement (this "Agreement") is made as of March 11, 2005 between Billybey Ferry Company, LLC ("BBFC"), a limited liability company organized and existing under the laws of the State of Delaware, and Port Imperial Ferry Corp. ("PIFC"), a corporation organized and existing under the laws of the State of New Jersey. BBFC and PIFC are parties to an Asset Purchase Agreement dated as of December 20, 2004 (the "Purchase Agreement") pursuant to which BBFC is acquiring from PIFC certain commuter ferry routes between New Jersey and New York and 16 ferry vessels used in the operation of such routes (the "Ferry Business"). BBFC desires to engage PIFC to provide certain management services in connection with the Ferry Business, and PIFC is willing to provide such services, all in accordance with the terms and conditions of this Agreement.

1. AGREEMENT TO PROVIDE SERVICES

BBFC hereby engages PIFC, such engagement to become effective on the Closing Date (as defined in the Purchase Agreement), on the terms and conditions herein set forth as an independent contractor to provide the Supervisory, Accounting, Human Resource, Customer Relations, MIS and Marketing Services herein described. PIFC hereby accepts such engagement and undertakes to perform its duties hereunder in accordance with sound business practices and in compliance with the laws and regulations of any government or competent authority applicable to the operation of the Ferry Business.

2. DUTIES OF PIFC

Without limiting the generality of the provisions of Section 1, and except as otherwise provided in this Agreement, PIFC shall, as an independent contractor of BBFC, undertake the following duties:

Supervisory Services

PIFC will provide the services of its senior management personnel to supervise and oversee the performance by PIFC of its responsibilities under this Agreement and under the Vessel Management Agreement of even date herewith (as the same may be amended, the "Vessel Management Agreement") and to report to BBFC on a regular basis. PIFC will provide to BBFC such management reports as are currently prepared by PIFC in the regular course of business and will provide such other reports as BBFC may reasonably request.

Accounting Services

PIFC will provide the services of its senior financial management personnel and of its payroll, accounts payable, purchasing, MIS and other accounting department personnel as may be necessary for PIFC to perform its duties under this Agreement and under the Vessel Management Agreement. PIFC will provide to BBFC such financial reports as are currently prepared by PIFC in the regular course of business and will provide such other reports as BBFC may reasonably request.

Human Resource Services

The services of the human resource department of PIFC are provided to BBFC indirectly through the functions that such department performs in respect of employees of PIFC who render services for BBFC or the cost of whom is shared by BBFC under this Agreement or the Vessel Management Agreement. Accordingly, BBFC will share in the cost of the human resource department of PIFC in accordance with the Schedule of Expenses annexed hereto.

Customer Relations Services

PIFC will provide the services of its customer relations department to assist BBFC in its normal communications with customers, including dissemination of schedules and customer service advisories.

MIS Services

PIFC will provide the services of its MIS personnel to assist BBFC with its computer and other technological needs in the same manner that such personnel currently provide such services to PIFC.

Marketing Services

PIFC will provide the services of its marketing department to assist BBFC with its marketing and advertising plans in the same manner that such personnel currently provide such services to PIFC.

3. DUTIES OF PIFC REQUIRING PRIOR APPROVAL OF BBFC

(a) PIFC shall notify BBFC and obtain BBFC's approval prior to undertaking expenditures not contemplated by the Schedule of Expenses. PIFC shall not be liable for any delays or added expense incurred while obtaining any requested approvals from BBFC.

(b) PIFC shall not sub-contract any of its obligations under this Agreement without the express written consent of BBFC. In the event of any such sub-contract, PIFC shall remain fully liable to BBFC for the due performance of PIFC's obligations under this Agreement.

(c) PIFC shall not, without the prior written consent of BBFC to (i) incur any obligation on behalf of BBFC, (ii) sell, lease, trade, exchange or otherwise dispose of any assets of BBFC; or (iii) enter into any contract on behalf of BBFC. In those instances where this Agreement expressly requires prior consent of BBFC, PIFC is not obligated to act until PIFC has received such consent.

(d) Except where this Agreement expressly requires prior consent of BBFC, PIFC is granted management discretion in performing all services under this Agreement.

(e) PIFC may require BBFC, on reasonable notice, to give PIFC directions or instructions with respect to particular actions PIFC intends to take. In the absence of such instructions or directions, PIFC shall have no obligation to take action, but may act in PIFC's discretion in accordance with sound management practice, as a prudent business owner would, and in compliance with all applicable laws and regulations of any government or competent authority.

4. EXPENSE REIMBURSEMENT

It is the intent of BBFC and PIFC that this Agreement shall provide for the reimbursement by BBFC to PIFC of the costs and expenses incurred by PIFC in providing the services provided for herein. BBFC shall reimburse PIFC or place PIFC in sufficient funds for PIFC's payment of all such costs, expenses, disbursements, claims and charges, paid or made and obligations incurred by PIFC in performing its services pursuant to this Agreement in accordance with a Schedule of Expenses from time to time established by PIFC and BBFC. The initial Schedule of Expenses is annexed hereto as Schedule A. PIFC shall maintain sufficient books and records to enable BBFC to review the calculations of expenses contemplated by the Schedule of Expenses.

5. TERM OF AGREEMENT AND TERMINATION OF AGREEMENT

(a) This Agreement shall become effective on the Closing Date and shall expire and terminate upon the earliest of (i) termination of this Agreement by PIFC upon 10 days prior written notice for nonpayment of expenses by BBFC if such nonpayment is not cured within such 10 day period; (ii) upon termination of this Agreement by BBFC as provided in 5(c) hereof; or (iii) upon termination of this Agreement by BBFC or PIFC as provided in Section 5(b) or Section 5(d) hereof.

(b) BBFC or PIFC may terminate this Agreement at will by giving PIFC not less than 90 days prior written notice thereof, provided that PIFC may not give such notice sooner than six months after the Closing Date and PIFC may not give such notice if at such time PIFC continues to operate the northern routes of the NY Waterway system.

(c) If PIFC fails to materially meet its obligations under this Agreement for any reason within the control of PIFC, BBFC may give notice to PIFC of the material default and require PIFC to remedy such default as soon as practically possible. In the event that PIFC fails to remedy the default within a reasonable time to the

satisfaction of BBFC, BBFC shall be entitled to terminate this Agreement with immediate effect by notice in writing.

(d) Either party shall have the option to terminate this Agreement with immediate effect by notice in writing in the event of an order having been made or resolution passed for the winding up, dissolution, liquidation or bankruptcy of the other party or if a receiver is appointed, or if it commences proceedings under any bankruptcy or insolvency laws to seek protection from its creditors.

(e) Upon termination of this Agreement, PIFC shall perform all services necessary to wind up all matters relating to its performance hereunder.

(f) Following termination and expiration of this Agreement, a final accounting shall be prepared by PIFC for BBFC of PIFC's management from the date of the last account rendered to the date of termination (plus post-termination expenses, if any, incurred for the benefit of BBFC), and PIFC shall promptly repay (i) any amounts advanced to it by BBFC which have not been earned, expended, or committed in accordance with the provisions of this Agreement, and (ii) all other amounts payable to BBFC; and BBFC shall promptly pay to PIFC any amounts earned, expended or committed by PIFC in accordance with the provisions of this Agreement which have not been paid.

(g) Upon receipt of notice of termination of this Agreement, PIFC shall fully cooperate with BBFC and any newly appointed manager designated by BBFC to assure an efficient and smooth transfer of the management functions to the new manager.

(h) Termination of this Agreement shall be without prejudice to all rights accrued between the parties prior to the date of termination and shall not relieve BBFC or PIFC of any obligations or liabilities accrued during the period prior to such termination.

6. DISCONTINUANCE OF CERTAIN SERVICES

BBFC may, on 30 days written notice to PIFC, discontinue the utilization of PIFC's services for one or more of the Accounting, Customer Relations, MIS or Marketing Services, in which event the Schedule of Expenses shall be appropriately adjusted to reflect such discontinued services.

7. RIGHT OF INSPECTION

BBFC and any person designated by BBFC shall have the right at any time, upon reasonable notice to PIFC, during the period of this Agreement to inspect or the books and records of PIFC relating to the Ferry Business, the services herein provided and the calculation of the expenses contemplated by the Schedule of Expenses. PIFC shall preserve and keep such records for a period of six years after the termination of this Agreement and shall make such records available to BBFC and its authorized representatives as reasonably required by BBFC.

8. **LIABILITY**

PIFC shall act prudently and with reasonable care and professionalism, but shall be under no liability whatsoever to BBFC for any loss, damage, delay, or expense of whatsoever nature, whether direct or indirect and howsoever arising in the course of performance of this Agreement, unless caused by the gross negligence or willful misconduct of PIFC, its employees, or agents or subcontractors employed by them.

9. **Intentionally Omitted**

10. **COLLECTIVE BARGAINING AGREEMENTS AND RELATED MULTI-EMPLOYER PLANS**

By entering into and performing this Agreement, BBFC is not undertaking any obligation, either directly as an employer, or indirectly, with respect to any collective bargaining agreements, arbitration awards, or under any employment law, with respect to any related pension, welfare, or fringe benefit plans, including severance payments and withdrawal liabilities, if any.

11. **MISCELLANEOUS**

(a) **Amendments.** This Agreement shall not be amended or modified except by written instrument executed by duly authorized officers of BBFC and PIFC.

(b) **Waiver.** No failure to enforce or insist upon performance of any provision of this Agreement and no waiver by any party of any one or more defaults by the other party in the performance of any provision of this Agreement shall operate or be construed as a waiver of such provision or of any future default or defaults, whether of like or of a different character, nor require or imply a similar indulgence on any other occasion.

(c) **Agreement Binding upon Successors, and Assigns; Assignment of Agreement.** All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, subject to the terms of this Agreement, each party, its successors or assigns. This Agreement may be assigned by BBFC upon written notice to PIFC in conjunction with the financing of the Vessel, whether or not such financing involves a change in ownership; provided, however, that BBFC agrees to use its best efforts to cause the parties to the financing to agree to the modification of this Agreement at PIFC's request to the extent reasonably deemed necessary by PIFC to protect fully PIFC's rights hereunder. BBFC may not otherwise assign this Agreement to any person without the prior written consent of PIFC. PIFC shall not assign this Agreement to any person without the prior written consent of BBFC, except that PIFC may assign its rights under this Agreement as collateral for its lenders. Any request, notice, direction, consent, waiver or other action taken by a party in connection with this Agreement or related transactions shall bind the successors and assigns of such party.

(d) **No Waiver as Against Third Parties.** No provision of this Agreement shall be construed to be a waiver on the part of BBFC or PIFC of the benefit of any

limitation of, or exemption from, liability accorded BBFC or PIFC by any statute or rule of law; provided, however, that this sub-section shall not in any way affect the obligations of PIFC and BBFC to each other hereunder.

(e) Notices. Unless otherwise provided herein all notices and other communications provided for in this Agreement shall be in writing (by letter or telecopy) or by telephone if subsequently confirmed within three days by letter, mailed first class certified mail, postage prepaid. Any such notice or communication shall be sent to:

If to PIFC:

Pershing Road
Weehawken, New Jersey 07086
Attention:

If to BBFC:

c/o Wachtel & Masyr, LLP
110 East 59th Street
New York, New York 10022
Attention: William B. Wachtel

Each party may at any time designate different or further addresses to which notices and other communications are henceforth to be sent, such designation to be made by written notice to the other party. Notices in writing shall be effective when received, and notice by telephone shall constitute written notice when the call is received by the party to whom such notice is sent, if subsequently confirmed as provided in this Section.

(g) Severability. If any term or provision of this Agreement shall be rendered invalid, illegal or unenforceable, the remaining terms and provisions shall be unaffected thereby and shall continue in full force and effect.

(h) Counterparts. This Agreement may be executed in separate counterparts, each of which when delivered shall be an original, but all of which shall constitute one and the same instrument.

(i) Headings Only for Reference. The headings of the various Sections of this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(j) Intentionally Omitted.

(k) Entire Agreement. This Agreement embodies the entire agreement and understanding between BBFC and PIFC relating to the subject matter hereof and supersedes all prior agreements and understandings related to such subject matter.

(l) Arbitration. Should there be any dispute between the parties arising out of, or related to, this Agreement, the matter in dispute shall be referred to three

persons in Hudson County, New Jersey one to be appointed by BBFC, one to be appointed by PIFC, and the third to be appointed by the two so chosen. In the event that either BBFC or PIFC shall send notice to the other party stating a dispute and designating an arbitrator in writing, the other party shall have thirty (30) days to designate its arbitrator, failing which, the arbitrator selected by the first party shall appoint a second arbitrator, who shall be a disinterested person, with the same force and effect as though the second arbitrator was appointed by the second party. The decision of any two of the three arbitrators shall be final, and for the purpose of enforcing any award, this agreement may be made a rule of the Court. The arbitrators shall be commercial persons conversant with maritime shipping matters. In the event the two appointed arbitrators cannot agree upon a third arbitrator, either party may move on an expedited basis in the United States District Court for New Jersey for the appointment of a third arbitrator. Any arbitral award may be enforced in the Federal or state courts in the State of New Jersey or in any other courts having jurisdiction. Each party hereby submits itself to the non-exclusive jurisdiction of the United States District Court for New Jersey and the courts of the State of New Jersey located in the County of Hudson for such purpose.

(m) Governing Law. This Agreement and the rights and obligations of the parties shall be governed by and construed in accordance with the laws of the State of New Jersey, including all matters of construction, validity and performance, but without regard to any choice of law principles that might permit or require the application of the law of a different jurisdiction; and, where applicable, the laws (including the general maritime law) of the United States.

(n) Additional Actions. Subject only to the conditions specified herein, each party shall execute all documents and take all actions reasonably required to effectuate the purposes of this Agreement, including compliance with all applicable laws and regulations.

(o) Force Majeure. Neither BBFC nor PIFC shall be liable in respect to any losses, damages or delays resulting from a failure or delay in exercising of any of the obligations under this Agreement, if that failure or delay is due to wars, revolutions or civil commotions, embargoes, blockades, legal restrictions, riots, fires, floods, strikes, government actions, or other cause beyond the control of the parties to this Agreement.

(p) Contracting. When entering into and performing contracts on behalf of BBFC, PIFC shall use all reasonable efforts to negotiate the best cost consistent with quality and services for the benefit of BBFC. BBFC shall, whenever it is lawful, have the benefit of any existing or future contracts of PIFC for the purchase of materials, equipment or services, etc. In the event PIFC shall obtain any repairs, stores, provisions, materials, supplies or equipment from any affiliate of PIFC, the cost incurred by PIFC in respect thereof shall be deemed to be the actual cost thereof to such affiliate plus any actual transportation, insurance or related costs incurred, but without any mark-up or other allowance for profit, commissions or the like. The obligations of PIFC under this Section are subject to the more specific provisions of the Schedule of Expenses to the extent such Schedule specifies the manner in which certain expenses are to be determined and to the provisions of Section 3 hereof regarding prior approvals required from BBFC.

(q) Applicable law, etc. Nothing contained in this Agreement is intended to, or shall be deemed to, (i) increase, enlarge, alter, amend, modify, change, vary or otherwise affect in any way the liabilities, obligations, or responsibilities (if any) of BBFC or any entity affiliated therewith under applicable law, documentation, and court orders, or (ii) alter, amend, modify, change, vary, prejudice, waive or otherwise affect in any way the rights, remedies, entitlements, benefits, protections, defenses, privileges, and immunities of or relating to BBFC or any entity affiliated therewith under applicable law, documentation, and court orders.

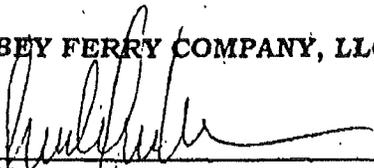
(r) No Third Party Beneficiary. No provision of this Agreement shall, or shall be deemed to, create any third-party beneficiary rights in any person, plan, trust or other entity (including, without limitation, any union or multiemployer plan) in respect of the payment of any amount due or owing from or to PIFC or otherwise, for any period, for any reason, or of any nature or kind whatsoever.

IN WITNESS WHEREOF, BBFC and PIFC have caused this Agreement to be executed on the date first written above by their respective authorized officers.

PORT IMPERIAL FERRY CORP.

BILLYBEY FERRY COMPANY, LLC

By: 
Name: Donald Liloya
Title: Executive Vice President
Date: March 11, 2005

By: 
Name: Paul Goodman
Title: Chief Executive Officer
Date: March 11, 2005

SCHEDULE A

INITIAL SCHEDULE OF EXPENSES

Funding: Prior to the effective date of this Agreement, PIFC and BBFC will establish a budget for costs contemplated by this Agreement for 2005. The budget will be based on a fiscal year consisting of 13 four week periods (each, a "Period"). BBFC will fund the budget in advance on a biweekly basis to the extent the expenses identified therein are to be paid by PIFC on behalf of BBFC. Within 15 days after the end of each Period, PIFC and BBFC will reconcile the actual costs to be borne by BBFC for the prior Period against the amount advanced therefor by BBFC. To the extent that the budget differs from the most recent reconciliation in the manner in which allocation formulas are determined, the budget will be revised so that future advances by BBFC will be in accordance with the allocations included in the then most recent reconciliation. To the extent of any inconsistency between the budget and this Agreement, this Agreement shall govern. BBFC will not be responsible for any expense of PIFC not identified in this Schedule A. PIFC may from time to time submit a requisition for any cost to be borne by BBFC under this Agreement that is not set forth in the budget. If BBFC elects to change its service operations or discontinue services pursuant to Section 6 hereof, the parties will in good faith revise the budget to reflect such changes.

Personnel: Hiring and firing decisions are in the discretion of PIFC but PIFC shall consult with BBFC. Salary levels are in the discretion of PIFC but shall be consistent with past practices. PIFC will consult with BBFC prior to implementing any change in salary levels. PIFC may not, however, allocate to BBFC the cost of any Supervisory Personnel not approved in advance by BBFC and may not, without the consent of BBFC, expand the number of employees that are currently employed for particular functions where the cost of such function is allocated in part to BBFC.

The chart below sets forth the method of calculating expenses to be paid by BBFC to PIFC under this Agreement. Certain terms used in the chart have the following definitions.

Head Count Allocation: BBFC will bear these costs in the proportion to which BBFC Allocated Employees bears to Total Employees. BBFC Allocated Employees shall mean the sum of (i) the number of employees the cost of whom is borne entirely by BBFC under this Agreement or the Vessel Management Agreement, (ii) a number of Captains, Deckhands and boat mechanics (whose services are allocated under the Vessel Management Agreement) determined by multiplying the total number of such Captains, Deckhands and boat mechanics by the Total Service Hours Allocation percentage (as determined under the Vessel Management Agreement) and (iii) the number of headquarters employees whose salaries are allocated under this Agreement multiplied by the Total Service Hours Allocation percentage. Total Employees means the total number of employees of PIFC and its affiliated companies, including without limitation those employed in its bus operations and restaurant operations.

Pass-Through of Actual Cost: Actual cost thereof, without any mark-up, overhead allocation (unless otherwise specified) or other allowance for profit, commissions or the like. All contractual third-party costs will be paid on this basis (landing armored car service, license and permit fees, and the like).

Revenue Allocation: BBFC will bear these costs in the proportion to which BBFC revenue for a Period bears to the total revenue of BBFC and PIFC and PIFC's affiliated companies for such Period ("Aggregate Revenue") (except that where allocated employees are dedicated to ferry service only, the revenue of PIFC and its affiliates will be limited to revenue of PIFC in its ferry operations). Where indicated, Aggregate Revenue shall include the revenue of NY Waterway Tours, LLC (the "Touring Company").

Payroll: Payroll is comprised of actual salary, payroll taxes and benefits. PIFC will provide appropriate supporting documentation for the calculation of such amounts.

Service	Cost Method	Personnel Covered
Human Resources	Head Count Allocation	Three employees
Accounting Services	The costs payable by BBFC under this section shall not commence until six months after the Closing Date.	
Supervisory	BBFC will bear 37.5% of the payroll costs	Fred Martinez
Payroll (including ADP fees)	Head Count Allocation	One and one-half employees
Accounts Payable	Revenue Allocation	Two and one-half employees
MIS	Revenue Allocation, including revenue of the Tour Company	Two employees
Purchasing	Revenue Allocation	One employee dedicated to ferry service only
General Ledger	Pass-Through of Actual Cost	One employee dedicated to BBFC. BBFC may elect to employ this person directly.
Third Party Software	By number of companies serviced	Great Plains Accounting Software
Marketing	Revenue Allocation, including revenue of the Tour Company	For internal marketing staff (currently comprised of two people). Third party agency and advertising buys requires prior approval of both PIFC and BBFC. Either

Service	Cost Method	Personnel Covered
		PIFC or BBFC can elect to incur its own advertising expenditures but shall coordinate the content of any ads or marketing materials. Advertising expenditures that benefit both the BBFC Routes and the PIFC Routes will be allocated based on Revenue Allocation. The Tour Company will bear its own advertising expenses under a separate agreement.
Supervisory	BBFC will bear 37.5% of the payroll costs	Donald Liloia, Robert Reichenberg and Auggie Pagnozzi
Third Party Web Site Costs	Revenue Allocation, including revenue of the Tour Company	Prior approval of both PIFC and BBFC required for any changes to current design and hosting arrangements
Customer Service	Revenue Allocation, including revenue of the Tour Company	Six agents, one supervisor (Carol Bullock) and her assistant
Office Equipment Leases	One-half of current office equipment leases will be borne by PIFC; the balance will be allocated between PIFC and BBFC based on a Revenue Allocation. No new equipment leases will be charged to BBFC without its prior written approval.	
Office Supplies	Revenue Allocation	Items constituting capital expenditures, leasehold improvements and other items required to be capitalized under generally accepted accounting principles will not be charged to BBFC.
Professional Fees	BBFC and PIFC will pay their own legal, audit and other professional	

Service	Cost Method	Personnel Covered
	fees. The fees of the union negotiator utilized by PIFC, to the extent applicable to ferry operations only, will be allocated based on Revenue Allocation.	

**Supplemental Agreement to 1988 Ferry Transportation Agreement between the
Arcorp/Hartz Joint Venture and the Port Authority**

I. IDENTIFICATION OF PARTIES:

- A. Port Authority of New York and New Jersey ("Authority" or "PATH")
225 Park Avenue South
New York, NY 10003

- B. BillyBey Ferry Company, LLC ("BillyBey" or "New York Waterway") ...
4800 Avenue at Port Imperial
Weehawken, NJ 07086

II. PURPOSE OF THIS AGREEMENT:

To provide for the establishment and maintenance of weekend commuter ferry service from Exchange Place/Paulus Hook, New Jersey ("Paulus Hook") to the World Trade Center/World Financial Center/Battery Park City, Manhattan ("BPC") during weekend interruptions of PATH cross-Hudson commuter rail service.

III. THE PARTIES AGREE TO THE FOLLOWING:

- A. Physical Facts: PATH cross-Hudson commuter rail service will be interrupted by construction during up to approximately 80 weekends during 2014 and 2015.

- B. Legal Facts:
 - 1. Extrinsic documents incorporated into this Supplemental Agreement are:-----
 - a. a 1988 Ferry Transportation Agreement now in effect between the Arcorp/Hartz Joint Venture and the Port Authority of New York and New Jersey, assigned to BillyBey Ferry Company, LLC on March 15, 2005 and that, with extension, expires October 11, 2019.
 - b. a February 2013 Agreement now in effect and to expire in 2016 (with six 3-year renewal options) between BillyBey Ferry Company LLC and Goldman Sachs.
 - 2. The effective date of this agreement shall be the date on which it has been executed by both parties
 - 3. The term of this agreement is two years from the date of execution.

IV. DURING THE TERM OF THIS AGREEMENT:

- a. BillyBey:
 - 1. shall perform the services described on Attachment A "Description of Weekend Services"
 - 2. shall bill the Authority according to Attachment B "Eligible Fees for Billing"
 - 3. shall continue to perform under the "Supplemental Agreement to 1988 Ferry Transportation Agreement between the Arcorp/Hartz Joint Venture and the Port Authority," assigned to BillyBey Ferry Company LLC on March 15, 2005.
 - 4. shall continue to perform under the 2013 BillyBey-Goldman Sachs Agreement.
 - 5. shall obtain any permission from Goldman Sachs that may be required for BillyBey to perform its obligations under this agreement.

6. shall collect fares on the Port Authority's behalf, shall deduct all monies received from its invoices to the Authority (as provided in Attachment B) and shall forward any surplus to the Authority.

b. The Authority:

- 1. will timely process payment applications submitted by BillyBey
- 2. will promptly remit payments to BillyBey
- 3. shall continue to perform under the "Supplemental Agreement to 1988 Ferry Transportation Agreement between the Arcorp/Hartz Joint Venture and the Port Authority," assigned to BillyBey Ferry Company LLC on March 15, 2005.

c. Invoices for payment shall be sent monthly to:

The Port Authority of New York and New Jersey
 233 Park Avenue South – 11th floor
 New York, New York 10003
 Attn: Janet D. Cox, General Manager, Ferry Transportation Program

V. FUTURE CONTINGENT PERFORMANCE BY THE PARTIES:

a. BillyBey:

- 1) in the event of non-payment by the Authority may terminate this Agreement.
- 2) may not for any other reason terminate this Agreement.

b. The Authority may for any reason and upon thirty (30) days written notice to BillyBey terminate this agreement, provided that during first 30 days of this agreement the Authority may terminate this agreement upon 10 days' notice.

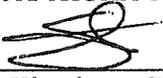
c. Both parties together may modify this Agreement provided that the modification is in writing.

VI. EXECUTION:

If the foregoing correctly sets forth our understandings and agreement, please sign where indicated below.

"OK AS TO FORM"
 F.F. 3/26/14

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By:  Date: 3-26-14
 Stephen Kingsberry, Director
 Port Authority Trans-Hudson (PATH)

Agreed to:
 BILLYBEY FERRY COMPANY, LLC

By:  Date: 3-26-14
 Paul Goodman DONALD J. LILOIA
 Chief Executive Officer SENIOR VICE PRESIDENT

Attachment A

Description of Weekend Services

Ferry service between Paulus Hook Ferry Terminal, Jersey City New Jersey and World Financial Ferry Terminal, Battery Park City, New York.

Service Schedule: Saturday (8 am – 10 pm) and Sunday (8 am – 10 pm)

Weekends of Service: The following is a proposed schedule of weekend service. BillyBey agrees that the schedule may be changed upon 10 days' notice from the Authority, provided the aggregate number of service days does not exceed 80 weekends.

<p>2014</p> <p>March 29-30</p> <p>April 5-6 April 12-13 April 26-27</p> <p>May 3-4 May 10-11 May 17-18</p> <p>May 31-June 1 June 7-8 June 14-15 June 21-22 June 28-29</p> <p>July 12-13 July 19-20 July 26-27</p> <p>August 2-3 August 9-10 August 16-17 August 23-24</p> <p>September 6-7 September 13-14 September 20-21 September 27-28</p>	<p>October 4-5 October 11-12 October 18-19 October 25-26</p> <p>November 1-2 November 8-9 November 15-16 November 22-23</p> <p>December 6-7 December 13-14</p> <p style="text-align: center;">2015</p> <p>January 3-4 January 10-11 January 17-18 January 24-25</p> <p>January 31 - February 1 February 7-8 February 14-15 February 21-22</p> <p>February 28 – March 1 March 7-8 March 14-15 March 21-22 March 28-29</p>
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Vessel: Either a 299 passenger vessel operating on a 15 minute frequency (with an hourly throughput in each direction of 1,200) or a 149 passenger vessel operating on a 12 minute frequency (with an hourly throughput in each direction of 745), such determination to be made by BillyBey in consultation with the Authority based on assessment of demand and on fleet availability.

Frequency of Service: Every 12 or 15 minutes, depending on the type of vessel in service.

Attachment B

Eligible Fees for Billing

Vessel Hourly/Operating Cost:	\$1050
Two Weekend Ticket Agents	\$20/hour for total of 30 hours each
Ticket Creation Cost	\$7,000/one time
Ticket Processing Fee	\$.05/ticket
Credit Card Transactions	Intermediary inter-charge rate plus 1% or \$.06, whichever is greater
Paulus Hook Ferry Terminal Usage (Reimbursable to Goldman Sachs) (The foregoing is an estimated amount; the actual billing for use of the Paulus Hook Ferry Terminal will be a pass-through of amounts actually charged to BillyBey by Goldman Sachs under the Ferry Service Pier Landing Request Agreement, a copy of which is annexed hereto)	\$818.70/Weekend

BillyBey shall collect fares on the Port Authority's behalf, shall deduct all monies received from its invoices and shall forward all monies to the Authority monthly, as follows:

1. Fare of \$2.50 (full fare) per passenger per one-way trip.
2. Children five years of age and under ride free.
3. Additional charge of \$1.00 per bicycle per one-way trip.
4. BillyBey monthly passes are not valid for this special weekend service.