

**SPONSORED BY:
SECONDED BY:**

**CITY OF HOBOKEN
RESOLUTION NO.:**

**RESOLUTION OF THE CITY OF HOBOKEN AUTHORIZING THE
EXECUTION OF AGREEMENT WITH THE FUND FOR A BETTER
WATERFRONT**

WHEREAS, on December 1, 2022, the City of Hoboken (the “**City**”) filed a Complaint in Condemnation (the “**Complaint**”) in the Superior Court of New Jersey, Law Division (the “**Court**”), Docket No. HUD-L-3967-22 (the “**Condemnation Action**”), in connection with the City’s acquisition of the property located at 901 Frank Sinatra Drive, Block 259, Lot 1 (the “**Property**”); and,

WHEREAS, the Property was owned by Port Imperial Marine Facilities, LLC (“**Port Imperial**”), an affiliate of New York Waterway, and was used by New York Waterway to support ferry operations that service residents of the City and surrounding communities; and,

WHEREAS, Port Imperial initially objected to the Condemnation Action and requested that the Court dismiss the Complaint; and,

WHEREAS, on March 6, 2023, the Court entered a Consent Order for Stipulation of Settlement (“**Consent Settlement Order**”), approved by the City and Port Imperial, in which those parties agreed to settle the Condemnation Action; and,

WHEREAS, as a condition to the settlement between the City and Port Imperial, the City and Port Imperial Ferry Corp. (“**PIFC**”), an affiliate of Port Imperial, executed a lease agreement (the “**Lease Agreement**”), pursuant to which PIFC will temporarily lease back from the City a portion of the Property so PIFC and New York Waterway may support their ferry operations while they construct new ferry service facilities elsewhere; and,

WHEREAS, pursuant to the Consent Settlement Order, upon PIFC’s receipt of certain necessary approvals relating to its operations on the Property, the Lease Agreement will become effective and the Parties may request that the Court enter a Consent Order for Final Judgment (“**Consent Order for Final Judgment**”), wherein the City and PIFC agreed, among other things, that the City validly exercised its power of eminent domain to acquire the Property and the amount of just compensation due to PIFC in exchange for the Property will be fixed; and,

WHEREAS, the settlement between the City and Port Imperial resolved all issues within the Condemnation Action, including the validity of the acquisition of the Property by the City, the amount of just compensation due to Port Imperial, and relocation issues; and,

WHEREAS, the City is financing the acquisition of the Property with funds from its Open Space Trust Fund; and,

WHEREAS, on October 3, 2023, The Fund for a Better Waterfront (“**FBW**”) filed a motion to intervene (the “**Motion to Intervene**”) in the Condemnation Action, initially arguing that, pursuant to Chapter 55-3 of the City’s Code, the Lease Agreement was required to be approved by referendum; and,

WHEREAS, the City and FBW have conferred and have determined to amicably resolve the issues raised in the Motion to Intervene, and they have negotiated an agreement (the “**FBW Agreement**”) that provides, in summary: (1) the City and FBW agree the Lease Agreement is valid, (2) any future sale or lease of the Property (other than the Lease Agreement) would be subject to Chapter 55-3 and (3) the City will amend the Declaration of Taking filed in connection with the Condemnation Action to so provide; and,

WHEREAS, the City desires to enter into the FBW Agreement and wishes to authorize execution of the FBW Agreement for the purposes of memorializing the parties’ understanding and setting forth in greater detail their respective understandings, rights and obligations.

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Hoboken, County of Hudson, State of New Jersey, as follows:

1. The foregoing recital paragraphs are incorporated herein as if fully set forth at length herein.
2. The City Council approves the FBW Agreement in substantially the same form as that attached hereto as **Exhibit A**, together with any changes, insertions and omissions, the Mayor deems necessary or desirable, after consultation with counsel to the City.
3. The Mayor, Business Administrator and other necessary and desirable City officials/employees and City consultants are authorized to execute, deliver and administer the FBW Agreement, and take any other necessary actions or refrain from taking actions, execute and deliver documents and/or agreements that are reasonable and necessary to effectuate the FBW Agreement and this Resolution, in consultation with counsel.
4. This Resolution shall take effect according to law.

Meeting Date: November 13, 2023

APPROVED:

**JASON FREEMAN
BUSINESS ADMINISTRATOR**

APPROVED AS TO FORM:

**BRIAN ALOIA, ESQ.
CORPORATION COUNSEL**

✓ Vote Record - CC - Resolution					
		Yes/Aye	No/Nay	Abstain/Alternate	Absent
<input type="checkbox"/> Adopted	Phil Cohen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Denied	Mike DeFusco	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Carried	James Doyle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Tiffanie Fisher		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Jennifer Giattino		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Joe Quintero		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ruben Ramos		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Michael Russo		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Emily Jabbour		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AGREEMENT

THIS AGREEMENT (the “**Agreement**”) is made this ____ day of _____, 2023, by and between the **CITY OF HOBOKEN** (the “**City**”), a municipal corporation of the State of New Jersey, 94 Washington Street, Hoboken, New Jersey 07030 and **THE FUND FOR A BETTER WATERFRONT** (“**FBW**” and, together with the City, the “**Parties**”), a New Jersey nonprofit corporation, 300 Observer Highway, Hoboken, New Jersey 07030.

WITNESSETH:

WHEREAS, on December 1, 2022, the City filed a Complaint in Condemnation (the “**Complaint**”) in the Superior Court of New Jersey, Law Division (the “**Court**”), Docket No. HUD-L-3967-22 (the “**Condemnation Action**”), in connection with the City’s acquisition of the property located at 901 Frank Sinatra Drive, Block 259, Lot 1 (the “**Property**”); and

WHEREAS, the Property was owned by Port Imperial Marine Facilities, LLC (“**Port Imperial**”), an affiliate of New York Waterway, and was used by New York Waterway to support ferry operations that service residents of the City and surrounding communities; and

WHEREAS, Port Imperial initially objected to the Condemnation Action and requested that the Court dismiss the Complaint; and

WHEREAS, on March 6, 2023, the Court entered a Consent Order for Stipulation of Settlement (“**Consent Settlement Order**”), approved by the City and Port Imperial, in which those parties agreed to settle the Condemnation Action; and

WHEREAS, as a condition to the settlement between the City and Port Imperial, the City and Port Imperial Ferry Corp. (“**PIFC**”), an affiliate of Port Imperial, executed a lease agreement (the “**Lease Agreement**”), pursuant to which PIFC will temporarily lease back from the City a portion of the Property so PIFC and New York Waterway may support their ferry operations while they construct new ferry service facilities elsewhere; and

WHEREAS, pursuant to the Consent Settlement Order, upon PIFC’s receipt of certain necessary approvals relating to its operations on the Property, the Lease Agreement will become effective and the Parties may request that the Court enter a Consent Order for Final Judgment (“**Consent Order for Final Judgment**”), wherein the City and PIFC agreed, among other things, that the City validly exercised its power of eminent domain to acquire the Property and the amount of just compensation due to PIFC in exchange for the Property will be fixed; and

WHEREAS, the settlement between the City and Port Imperial resolved all issues within the Condemnation Action, including the validity of the acquisition of the Property by the City, the amount of just compensation due to Port Imperial, and relocation issues; and

WHEREAS, the City is financing the acquisition of the Property with funds from its Open Space Trust Fund; and

WHEREAS, on October 3, 2023, FBW filed a motion to intervene (the “**Motion to Intervene**”) in the Condemnation Action, initially arguing that, pursuant to Chapter 55-3 of the City’s Code, the Lease Agreement was required to be approved by referendum; and

WHEREAS, the Parties have conferred and have determined to amicably resolve the issues raised in the Motion to Intervene as set forth below.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals**. The foregoing recital paragraphs are incorporated herein by reference and agreed to by the Parties as if fully set forth at length herein.

2. **Validity of Lease Agreement**. The City and FBW recognize and acknowledge that, upon the satisfaction of the conditions in the Consent Settlement Order and the corresponding commencement of the Lease Agreement, the Lease Agreement will be valid and effective, and that no further approval from the City, including by referendum, shall be necessary in connection therewith.

3. **Future Sale/Lease of Property**. After the entry by the Court of the Consent Order for Final Judgment in accordance with the terms of the Consent Settlement Order, in the event the City determines it is necessary or convenient to sell or lease the Property, except for the Lease Agreement, such sale or lease would be subject to the provisions of Chapter 55-3 of the City Code.

4. **Amendment of Declaration of Taking**. After the Court enters the Consent Order for Final Judgment, the City will amend the Declaration of Taking filed in connection with the Condemnation Action to provide that the Property was acquired with funds from the City’s Open Space Trust Fund and that, except for the Lease Agreement, sale or lease of the Property would be subject to the provisions of Chapter 55-3 of the City Code.

5. **Severability**. In case any provision contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

6. **Legal Authority**. The individuals who have executed this Agreement on behalf of the respective Parties expressly represent and warrant that (a) they are authorized to sign on behalf of such Party for the purpose of duly binding such Party to this Agreement (b) the rights and obligations hereunder are valid, binding, and enforceable. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors and permitted assigns.

7. **Counterparts**. This Agreement may be executed in any number of counterparts, and each such counterpart shall, for all purposes, be deemed an original instrument, but all such counterparts together shall constitute but one and the same Agreement. Facsimile and electronic mail (in Portable Document Format “PDF”) signatures of the undersigned Parties shall have the same force and effect as original signatures.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed as of the date set forth on the first page hereof.

CITY OF HOBOKEN

By: _____
Ravinder Bhalla, Mayor

THE FUND FOR A BETTER WATERFRONT

By: _____
Ron Hine, Executive Director

Attachment: Agreement (Union Dry Dock FBW Agreement)