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FILED
January 11, 2024
Jeffrey R. Jablonski, A.J.S.C.

CITY OF HOBOKEN, a municipal
corporation of the State of New
Jersey,

Plaintiff,

v.
PORT IMPERIAL MARINE
FACILITIES, LLC, and STATE OF
NEW JERSEY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY
DOCKET NO. HUD-L-3967-22

Civil Action
(In Condemnation)

**CONSENT ORDER FOR FINAL JUDGMENT
FIXING JUST COMPENSATION, PAYMENT
OF FUNDS, WITHDRAWAL OF FUNDS
FROM COURT, FOR DISMISSAL OF
CERTAIN DEFENDANT, AND FOR OTHER
RELIEF**

THIS MATTER having been opened to the Court upon motion of Plaintiff, City of Hoboken ("Plaintiff" or "City"), with the consent of Defendant, Port Imperial Marine Facilities, LLC ("Port Imperial" and collectively with the City the "Parties"), and it appearing that the City and Port Imperial have complied with the Stipulation and Consent Order of Settlement and Stay entered by the Court on March 6, 2023 ("Order of Settlement and Stay") such that the City and Port Imperial have reached an amicable settlement as to (i) the just compensation ("Just Compensation") payable as a result of the acquisition of the property as set forth in the Complaint ("Subject Property") in this matter of Eighteen Million Five Hundred Thousand Dollars and 00/100 (\$18,500,000), inclusive of interest, in full and final settlement of all claims for Just

Compensation and other amounts that may be due to Port Imperial under the Relocation Assistance Law of 1967, N.J.S.A. 52:31B-1 et seq., the Relocation Assistance Act of 1971, N.J.S.A. 20:4-1 et seq., and the regulations promulgated thereunder (collectively, the "Relocation Obligations"), and (ii) the Lease Agreement between the City and Port Imperial Ferry Corp. ("PIFC"), an affiliate of Port Imperial ("Lease Agreement"); and

It further appearing that all parties who entered an appearance in this matter received notice of the motion to enter the within Consent Order for Final Judgment Fixing Just Compensation, Payment of Funds, Permitting Withdrawal of Funds From Court, Dismissal of Certain Defendant, and For Other Relief ("Consent Order for Judgment"), and no objections having been received by the Court; and

It further appearing that a Complaint in Condemnation was filed on December 1, 2022 in this matter and Thirteen Million Three Hundred Sixty Thousand Dollars and 00/100 (\$13,360,000), the amount of the estimated Just Compensation, was deposited into court on December 2, 2022, which amount shall be fully credited against the aforesaid settlement amount; and

It further appearing that the City filed a Declaration of Taking in the Hudson County Register's office on December 2, 2022; and

It further appearing that Port Imperial filed an Answer in this matter on December 5, 2022, denying the Plaintiff's right to take and asserting other related matters; and

It further appearing that, by operation of law, the filing of said Answer automatically activated the imposition of a stay against all further proceedings until the matter is resolved; and

It further appearing that the amount of Thirteen Million Three Hundred Sixty Thousand Dollars and 00/100 (\$13,360,000) presently on deposit with the Trust Fund Unit of the Superior Court will be payable in connection with, and pursuant to, the terms of this Consent Order of Judgment and, in that regard, the Trust Fund Unit has verified the availability of these funds in connection with the entry of the Consent Order of Judgment; and

It further appearing that the balance of the settlement amount, Five Million One Hundred Forty Thousand Dollars and 00/100 (\$5,140,000), will be paid to McKirdy, Riskin, Olson, DellaPelle Attorney Trust Account as set forth below; and

It further appearing that Port Imperial agreed to temporarily occupy, and vacate, the Subject Property in accordance with the terms of the Order of Settlement and Stay and the referenced Lease Agreement between the City and PIFC; and

It further appearing that good cause having been shown,

IT IS on this 11th day of January 2024,

ORDERED AND ADJUDGED that:

1. Final Judgment is hereby entered that the City is authorized to and has duly exercised its power of eminent domain as to the Subject Property.

2. Final Judgment Fixing Just Compensation be and the same is hereby entered against the City and in favor of Port Imperial in the amount of Eighteen Million Five Hundred Thousand Dollars and 00/100 (\$18,500,000) for the taking of the Subject Property, inclusive of all claims and interests, including claims in connection with any Relocation Obligations, and without cost to any party.

3. The City shall receive credit for the sum previously deposited with the Trust Fund Unit of the Superior Court of New Jersey, in the amount of Thirteen Million Three Hundred Sixty Thousand Dollars and 00/100 (\$13,360,000).

4. The amount of Thirteen Million Three Hundred Sixty Thousand Dollars and 00/100 (\$13,360,000), plus any accrued interest presently on deposit with the Trust Fund Unit of the Superior Court, as aforesaid, shall be paid to Port Imperial, made payable to McKirdy, Riskin, Olson, DellaPelle Attorney Trust Account, 201 Littleton Road, Suite 135, Morris Plains, New Jersey 07950, and shall be subject only to claims, if any, properly raised in response to the motion seeking entry of this Consent Order for Judgment. The Trust Fund Unit has verified the availability of

these funds in connection with the entry of this Consent Order for Judgment.

5. The City shall remit payment of the balance due and owing in the amount of Five Million One Hundred Forty Thousand Dollars and 00/100 (\$5,140,000) to Port Imperial, made payable to McKirdy, Riskin, Olson, DellaPelle Attorney Trust Account as follows:

a. \$4,640,000 within thirty (30) days of the release of this Order from escrow; and

b. \$500,000 the earlier of: (i) the receipt, by Port Imperial, of all permits necessary to construct facilities in the Township of Weehawken to which it, or its affiliate (PIFC or otherwise) is expected to relocate or (ii) within thirty (30) days of PIFC's vacation of the Subject Property and termination of the Lease Agreement.

6. PIFC shall occupy and vacate the Subject Property in accordance with the terms of the Lease Agreement.

7. If PIFC fails to vacate the Subject Property in accordance with the terms of the Lease Agreement, said PIFC agrees that the City may file a certification stating that PIFC has so failed to vacate the Subject Property and that a warrant of removal may be issued by the Clerk. **THIS MEANS THAT IF PIFC FAILS TO VACATE THE SUBJECT PROPERTY IN ACCORDANCE WITH THE TERMS OF THE LEASE AGREEMENT, PIFC MAY BE EVICTED AFTER SERVICE OF A WARRANT OF REMOVAL, UNDER THE TERMS OF THIS CONSENT ORDER FOR JUDGMENT,**

NOTWITHSTANDING ANY MORATORIUM ON EVICTION ACTIONS APPLICABLE IN THE STATE OF NEW JERSEY, IF ANY, AT THAT TIME OR ANY OTHER LAW APLICABLE TO LANDLORDS AND TENANTS.

8. Defendant State of New Jersey is dismissed from this action with prejudice.

9. This Consent Order for Judgment resolves all issues raised in the Complaint or claimed by Port Imperial which arose or will arise out of this action, including any issues related to Relocation Obligations.

10. This Consent Order for Judgment resolves all issues relating to environmental contamination, hazardous materials or solid waste, existing as of the filing of the Complaint, which has been or may be found upon or beneath the Subject Property acquired in this action. Such environmental issues shall not be preserved and may not be the basis of a future action subject to applicable substantive law, except as relates to performance of the following:

a. Prior to the entry of this Order, Port Imperial has: (a) engaged a Licensed Site Remediation Professional ("LSRP"), (b) installed a fence around the entirety of the Subject Property, which Port Imperial's LSRP confirms constitutes an acceptable interim engineering control, and performed such other actions required by its LSRP in connection with such interim engineering control, (c) caused the LSRP to issue a Remedial Action Report and submit same to the New Jersey Department of

Environmental Protection (NJDEP); and (d) applied to the NJDEP for a Remedial Action Permit in connection with the interim engineering control.

b. If not already issued prior to the entry of this Order, Port Imperial shall cause the LSRP to issue a Response Action Outcome (RAO) upon its receipt of a NJDEP-approved RAP.

c. Upon the date that this Order is released from escrow, the City shall assume responsibility for all remediation obligations with respect to the environmental condition of the Subject Property, other than the following, which shall be retained by Port Imperial: (i) obligations pursuant to subsections a. and b. above, (ii) in the event that the RAO has not been issued prior to the entry of this Order, any final requirements of the Industrial Site Recovery Act, *N.J.S.A. 13:1K-1 et seq.* (e.g. any required remediation certification to NJDEP), (iii) responding to and appropriately addressing any inquiries or audits from the NJDEP with respect to the RAO during the three (3) year audit period following issuance of the RAO, and (iv) any release of Hazardous Substances that occurs within the area occupied by Port Imperial between the date of entry of the Order of Settlement and Stay and the date this Order is released from escrow, and thereafter, within the area leased by Port Imperial pursuant to the provisions of the Lease Agreement during Port Imperial's occupancy of such leased area.

d. Without limiting the City's obligations, following NJDEP approval of the RAP as above, the City shall assume all obligations to comply with such RAP, including: (i) periodic inspections of the engineering controls; (ii) biennial certifications to the NJDEP; (iii) payment of all NJDEP fees associated with the RAP; and (iv) completion of any terminations and/or modifications to the RAP, and any associated deed notice, at the appropriate time following completion of improvements to the Subject Property;

e. For the purpose of determining if any release occurred after the date of entry of the Order of Settlement and Stay, the parties agree that the Remedial Investigation Report by EcolSciences dated September 16, 2022 in ISRA Case E20170117 shall serve as a benchmark;

f. Each of the Parties shall indemnify and hold the other and its affiliates, agents, employees and contractors harmless from and against any and all environmental liabilities at the Subject Property arising from the obligations assumed by the respective party pursuant to this Order; and

g. In connection with the foregoing, each party shall reasonably cooperate and, to the extent necessary, sign, or otherwise consent to the submission of, all documents or applications related thereto.

11. The uploading of this Consent Order on eCourts shall constitute service on all parties whose counsel have entered appearances or other pleadings on eCourts. The City shall serve a copy of this Consent Order upon all other defendants within seven (7) days of the uploading on eCourts.

Jeffrey R. Jablonski

Honorable Jeffrey R. Jablonski, A.J.S.C.

VERIFIED AS TO THE PRINCIPAL
AMOUNT ON DEPOSIT - \$ 3,360,000.00
CLERK, SUPERIOR COURT
BY: Memo 1/2/2024

We hereby consent to the form
and entry of the within Order.

MCMANIMON, SCOTLAND
& BAUMANN, LLC
Attorneys for Plaintiff,
City of Hoboken

McKIRDY, RISKIN, OLSON &
DELLAPELLE, P.C.
Attorneys for Defendant,
Port Imperial Marine
Facilities, LLC



By: /s/ Kevin P. McManimon
KEVIN P. MCMANIMON

By: _____
ANTHONY DELLAPELLE

~~VERIFIED AS TO AMOUNT ON DEPOSIT~~

~~_____
Clerk, Superior Court of New Jersey~~