

DRAFT FOR CLIENT REVIEW

**THE FISHERS ISLAND ENABLING ACT,
AS AMENDED AND CONFORMED**

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DRAFT FOR CLIENT REVIEW**AN ACT**

Authorizing the acquisition, construction, equipment and operation of a public ferry for hire from Fishers Island across waters of Long Island Sound; authorizing the creation of Fishers Island ferry district in the town of Southold, Suffolk County and providing for the election of its officers and management of its affairs; authorizing the collection of ferriage charges; authorizing the issuance and sale of obligations of said town and providing for their payment; authorizing the levy and collection of taxes; and providing for other related matters.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Upon petition as hereinafter provided, the town board of the town of Southold, Suffolk County, may, after a public hearing and with the permission of the state comptroller, establish the entire territory of Fishers Island in said town, exclusive of those portions of Fort Wright which are government owned, a public ferry district, to be known as the Fishers Island ferry district. Such petition shall be signed by the owners of taxable real property situate in the proposed district, owning in the aggregate at least one-half of the assessed valuation of all the taxable real property of the proposed district as shown by the latest completed assessment roll of said town; provided, however, that the petition shall include the signatures of resident owners owning taxable real property aggregating at least one half of the assessed valuation of such taxable real property. All of the provisions of article twelve of the town law, not inconsistent with the provisions of this act, shall apply to the establishment and operation of such district.

[Amended by Chapter 169 of the Laws of 1957]

§ 1-a. The town board of the town of Southold, Suffolk County, may extend the Fishers Island ferry district to include the entire territory of Fishers Island pursuant to the applicable provisions of article twelve-a of the town law. [Amended by Chapter 637 of the Laws of 1962]

§ 2. The object and purpose of the district shall be to acquire, construct, equip, operate and maintain a public ferry for the transportation for hire of persons and vehicles, and goods, wares and merchandise, from convenient points on Fishers Island across the waters of Long Island sound and other adjacent waters or tributary thereto to points within and without the state. Such ferry may be referred to as the Fishers Island ferry. A further object and purpose of the district shall be to acquire by gift, purchase or lease, an airport or landing field situated on Fishers

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Island, and to operate and maintain such airport. [Amended by Chapter 620 of the Laws of 1951].

§ 3. The town board of the town of Southold may construct Fishers Island ferry, and acquire all boats and other equipment and appurtenances necessary, or authorize the commissioners of the district to let the necessary contract or contracts therefor. The town board of such town may acquire all lands, rights or easements in land necessary for the purposes of such ferry, and with the approval of the superintendent of public works may erect or cause to be erected and maintained within the limits of any public highway, all braces, appendages or other equipment and structures necessary for the operation of the ferry. ~~No contract shall be let unless sealed competitive bids shall have first been received, in accordance with notice of the time and place of the receipt of such bids, which notice shall be published in a newspaper having general circulation in the town, and posted in at least five conspicuous places within the district at least ten days before the opening of bids by the commissioners. All bids received shall be opened in public at the time and place specified by the notice. The town board or such commissioners, if authorized, may accept or reject any bid and may award a contract to the bidder whose bid is deemed most favorable to the district.~~ The town board may also authorize the commissioners to contract with a private person or persons or a corporation for the independent operation of such ferry upon such terms and conditions as may be mutually agreed upon, provided, however that any such contract or renewal thereof shall not be for a period of longer than five years. No bid for such contract shall be received as hereinafter provided unless the terms and provisions thereof shall have been approved by the town board. ~~No contract for the purchase of materials costing more than one thousand dollars or for services costing more than twenty five hundred dollars shall be let unless sealed competitive bids shall have first been received, in accordance with notice of the time and place of the receipt of such bids, which notice shall be published in a newspaper having general circulation in the town, and posted in at least five conspicuous places within the district at least ten days before the opening of bids by the commissioners. All bids received shall be opened in public at the time and place specified in the notice. The town board or such commissioners, if authorized, may accept or reject any bid and may award a contract to the bidder whose bid is deemed most favorable to the district.~~ [Amended by Chapter 82 of the Laws of 1950; Chapter 170 of the Laws of 1957, and Chapter 650 of the Laws of 1968]

§ 4. The cost of acquisition, construction and equipment of the ferry, including lands and rights or easements in lands, shall be paid from ~~the proceeds of town obligations to be issued and sold in the manner provided by the local finance law.~~ taxes levied for the fiscal year in which such expenditure is made; from surplus funds, or from the proceeds of town obligations to be issued and sold in the manner provided by the local finance law. The town board of the town of Southold may borrow the amount needed for such purposes and issue town obligations therefor

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in an aggregate principal amount not exceeding ~~five~~ ~~one~~ hundred thousand dollars. Upon the adoption of a resolution by the town board, subject to a permissive referendum by the owners of taxable real property situate within the ferry district as shown by the latest completed assessment roll of said town, such aggregate principal amount which the town board may borrow and for which obligations may be issued may be increased to any amount up to but not exceeding the sum of five million dollars. [Amended by Chapter 82 of the Laws of 1950; Chapter 968 of the Laws of 1973; Chapter 742 of the Laws of 1976; Chapter 916 of the Laws of 1983 and Chapter 467 of the Laws of 1993]

§ 5. The affairs of the district shall be under the jurisdiction, control and supervision of a board of five commissioners. The town board shall appoint five resident taxpayers of the district who shall constitute the board until their successors are elected and have qualified pursuant to the provisions of this act. Successors to the members so appointed shall be elected by the electors of the district as hereinafter provided. Every person who is an elector of the town of Southold and the owner of real property situate within the Fishers Island ferry district assessed upon the last preceding town assessment roll shall be eligible to hold the office of ferry commissioner. The ferry commissioners shall have power and it shall be the duty of such commissioners: [Amended by Chapter 637 of the Laws of 1962]

- (a) To prepare or cause to be prepared and to submit to the town board of the town of Southold for approval, plans for the acquisition, construction and equipment of the ferry;
- (b) To supervise the construction of any works or improvements connected with the ferry and make reports thereon from time to time as the town board shall require;
- (c) To have jurisdiction, control and supervision over the ferry and to operate and maintain the same;
- (d) To purchase all necessary tools, materials and supplies needed for the proper upkeep of the ferry;
- (e) Subject to approval by the town board of the town, to enter into contracts or leases for the purpose of the ferry;
- (f) Subject to the approval of the town board of the town, to appoint and at pleasure remove a manager and such other employees and assistants as may be necessary to carry out the purposes of this act, and fix their compensation;

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(g) Subject to the approval of the town board of the town, to promulgate and adopt and from time to time amend rules and regulations governing the operation of the ferry;

(h) To fix and classify with the approval of the town board and subject to agreements with bond holders, and from time to time reduce or increase the rates of ferriage charges to be collected for the transportation of persons and of vehicles, and of goods, wares and merchandise;

(i) To fix the days and hours during which the ferry shall be operated and cause notice thereof to be posted at all entrances to the ferry;

(j) To post and keep posted in conspicuous and accessible places outside and adjacent to each entrance to the ferry, in plain view of the passengers upon such ferry, a schedule plainly printed in the English language of the rates of ferriage charges to be collected for transportation over such ferry;

(k) To have and exercise such additional powers and duties relating to the operation, maintenance and upkeep of the ferry as may be delegated to them by the town board.

Section 5-a.

The town board of the Town of Southhold may acquire by gift, purchase or lease, on behalf of the ferry district, an airport or landing field situated on Fishers Island, after a public hearing held in the same manner and upon the same notice as in the case of the establishment of the ferry district. The notice of hearing shall state generally the purpose of the hearing, describe the real property to be acquired and the nature of such acquisition, specify the amount of the consideration to be paid therefor and the time, when and place where said town board will meet to consider the proposition and to hear all persons interested in the subject thereof concerning the same. After such hearing and upon the evidence adduced thereat, the town board shall determine by resolution whether or not it is in the public interest to acquire such real property in the manner and upon the terms stated in the notice of hearing. If the town board shall determine that such acquisition is in the public interest, it may proceed to acquire such real property in the specified manner and upon the specified terms. [Amended by Chapter 620 of the Laws of 1951]

Section 5-b.

When such airport or landing field shall have been acquired, the town board may delegate jurisdiction, control and supervision of such airport or landing field to the board of ferry district commissioners. The board of ferry commissioners may:

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- (a) Equip, maintain, repair and operate such airport or landing field.
- (b) Subject to the approval of the town board of the town, adopt and amend from time to time, rules and regulations governing the operation and use of such airport or landing field.
- (c) Provide such services and facilities as are usual and incidental to the operation of an airport or landing field, and fix, from time to time, the fees, charges, rentals or other consideration for the rendering of such services and the use of such facilities.
- (d) Grant licenses, concessions and privileges and sell space and rent premises to such grantees and licensees for the carrying out of the business furnishing services, supplies and materials required for the maintenance, repair and operation of aircraft and such other services, supplies and materials reasonably necessary or incidental to the operation of such airport or landing field.
- (e) Contract at the expense of the ferry district for insurance indemnifying the ferry district, or the town, or both, against loss arising from injuries to persons or property arising out of the maintenance and operation of such airport or landing field.
- (f) Cause ferry district property to be insured against loss or damage from fire or other hazard.
- (g) Lease such portion of the airport or landing field not required for airport or landing field purposes for any legal business purpose.

The exercise of any power authorized by paragraphs (d) and (g) of this section shall be subject to the approval of the town board after a public hearing held by the board of ferry commissioners. Notice of such public hearing shall state generally the purpose thereof, describe briefly the terms of the license, concession, privilege or lease and specify the time when and place where the board of ferry commissioners will meet to consider the proposition and to hear all persons interested in the subject thereof concerning the same. Such notice shall be published and posted in the same manner as in the case of the establishment of the ferry district.

All revenues, of whatsoever kind or nature, arising out of the maintenance and operation of such airport or landing field, shall be the property of the ferry district, and shall be treated in the same manner as prescribed in section six hereof as to ferry

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revenues. All costs, expenses and liabilities, of whatever kind or nature, whether tort or contract, arising out of the ownership, maintenance and operation of such airport or landing field shall be charges against the ferry district and paid out of ferry district funds. The annual estimate required to be made by the board of ferry district commissioners pursuant to section ten hereof shall include anticipated revenues and expenditures arising out of the ownership, maintenance and operation of such airport or landing field.

[Amended by Chapter 620 of the Laws of 1951]

§6. All moneys received from ferriage charges shall be deposited daily in a ~~bank~~banks or trust ~~company~~companies in the state of New York and the state of Connecticut, to be designated by the supervisor of the town of Southold and to the credit of such supervisor. The supervisor shall execute and file with the town clerk additional security for the safekeeping and lawful application of such moneys in such amount and with such sureties as the town board shall approve. The expense incurred in connection with any such undertaking shall be a charge against the district. The ferry commissioners shall on or before the tenth day of each month, file with the town clerk of the town a report of their activities during the preceding month in such detail as the town board shall require. Each such report shall contain a statement showing the amount of ferriage charges collected and all obligations of the district unpaid at the time of filing the report. All claims against the district shall be audited monthly by the town board and paid by the supervisor from moneys remaining to his credit and belonging to the ferry district. ~~to be designated by the supervisor of the town of Southold and to the credit of such supervisor. The supervisor shall execute and file with the town clerk additional security for the safekeeping and lawful application of such moneys in such amount and with such sureties as the town board shall approve. The expense incurred in connection with any such undertaking shall be a charge against the district. The ferry commissioners shall on or before the tenth day of each month, file with the town clerk of the town a report of their activities during the preceding month in such detail as the town board shall require. Each such report shall contain a statement showing the amount of ferriage charges collected and all obligations of the district unpaid at the time of filing the report. All claims against the district shall be audited monthly by the town board and paid by the supervisor from moneys remaining to his credit and belonging to the ferry district~~ Out of such moneys the town board may establish a revolving petty cash fund for the use of the board of

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commissioners. Such fund shall be in such amount as the town board may deem necessary but shall not at any time exceed the sum of fifteen hundred dollars and shall continue in existence from year to year until abolished. Such petty cash fund shall be placed in an account in the name of the commissioners and shall be under the control of the manager and expenditures therefrom shall be made only for payment in advance of audit of properly itemized and certified or verified bills for materials, supplies and services other than employment, provided, however, that expenditures not in excess of ten dollars at any one time may be made for cash purchases of necessary materials or supplies. A statement of expenditures from such petty cash fund and their purposes together with the bills or vouchers therefor shall be a part of the monthly report to the town board. Upon audit by the town board such petty cash fund shall be reimbursed in the amount of the expenditures allowed. In the event that any such bills or expenditures are disallowed the manager shall be personally liable therefor. [Amended by Chapter 82 of the Laws of 1950; Chapter 916 of the Laws of 1983; & Chapter 467 of the Laws of 1993]

§ 7. The annual meeting for the election of commissioners shall be held on the second Tuesday in August. At the ~~annual election to be held in the year nineteen hundred forty seven, first~~ annual election one ferry commissioner shall be elected for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one ferry commissioner shall be elected for a term of five years, to commence on the date of this election. Successors to such ferry commissioners shall be elected for terms of five years each. The commissioners shall organize by the election from their number of a chairman who shall preside at all meetings of the board of commissioners. ~~The commissioners shall meet monthly on the second Tuesday in each month for the transaction of the business of the district. Special meetings may be held at the call of the chairman. Each commissioner shall receive for his services the sum of ten dollars for each meeting of the board actually attended by him, together with his expenses necessarily incurred in the performance of his duties as a ferry commissioner, provided that the aggregate compensation which any such commissioner may receive for services rendered during any year shall not exceed the sum of three hundred dollars.~~ The commissioners shall meet at least monthly on the second Tuesday in each month in accordance with a schedule of meeting to be established by them prior to the start of the calendar year for the transaction of the business of the district. Special meeting may be held at the call of the chairman. Each commissioner shall receive for his

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services the sum of fifty dollars for each meeting of the board actually attended by him, provided that the aggregate compensation which any such commissioner may receive for services rendered during any year shall not exceed the sum of two thousand dollars. In addition thereto each commissioner shall receive his expenses actually and necessarily incurred in the performance of the duties of his office. Such expenses shall be paid from the funds of the ferry district after audit and approval by the town board. [Amended by Chapter 27 of the Laws of 1948; Chapter 82 of the Laws of 1950; Chapter 968 of the Laws of 1973; & Chapter 467 of the Laws of 1993]

§ 8. The manager shall be the administrative head of the district and shall devote his entire time to the duties of his office. Before entering upon the duties of his office, the manager shall take the constitutional oath of office and file the same in the office of the town clerk of the town. The functions, powers and duties of the commissioners relating to the operation and maintenance of Fishers Island ferry shall be exercised and performed by the manager or under his supervision subject to the direction and control of the commissioners. The manager shall execute and file with the town clerk of the town an undertaking for the safekeeping and lawful application of any funds of the district which may come to his hands in such amount and with such surety or sureties as shall be approved by the town board of the town.

§ 9. The annual meeting shall be held within the district at a place to be fixed by the commissioners. The commissioners shall cause notice to be posted in five public places in the district at least ten days before the date of the annual meeting. The notice shall state the time, place and object of the meeting and the hours that the polls are to remain open. The polls shall be open for a period of four hours to be fixed by the commissioners. Voting shall be by paper ballot to be provided by the commissioners. Such ballots shall conform as nearly as may be to ballots for primary elections provided by section one hundred eight of the election law. The expense of such annual meeting shall be a charge against the district. Electors of the district qualified to vote for town officers of the town of Southold at the preceding town election and owners of real property situate within the Fishers Island ferry district assessed upon the last preceding town assessment roll shall be eligible to vote at any such annual election. The members of the board of commissioners shall appoint a board of inspectors consisting of a chairman and two tellers, all of whom are resident taxpayers but not members of the board of commissioners and such board shall serve as the inspectors of election and at the close of the

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polls shall canvass the vote and certify the result of the election. A certificate of the result executed by the inspectors of election shall be filed in the office of the town clerk of the town of Southold. [Amended by Chapter 637 of the Laws of 1962]

§10. The fiscal year of the district shall commence on the first day of January and end on the thirty-first day of December. The commissioners shall prepare detailed estimates in writing of the anticipated revenues and expenditures for such district for the purpose of determining the amount of money required to meet the expenses of operation and maintenance of the district and district property and improvements for the fiscal year commencing on the first day of January next succeeding. ~~Such annual estimates shall be prepared and submitted and action thereon taken by the town board of the town.~~ Upon the completion of such annual estimates, the commissioners shall adopt a resolution specifying the time when and place where a public hearing will be held upon such annual estimates and require the manager to give notice of such hearing. Such hearing shall be held on or before the twentieth day of August in each year. Notice of such hearing shall be published once in one newspaper having general circulation within the district at least ten days prior to the time of such hearing. At the time and place specified in such notice, the commissioners shall meet and review said annual estimates. At such hearing any person may be heard in favor of or against such annual estimates as compiled or for or against any item or items therein contained. After such hearing the commissioners may increase or reduce any item contained in such annual estimates. Thereupon, the commissioners shall approve such annual estimates and submit the same to the town board of the town for its action thereon in the manner and within the time specified in section two hundred two-a of the town law. The town board shall add to any such estimate installments of principal and of interest accruing during such fiscal year on any town bonds issued to provide funds for the payment of the cost of acquisition, construction and equipment of the ferry. The amount of such estimate as approved by the town board shall be raised by tax upon all the taxable real property of the district, at the same time, in the same manner and by the same officers as town charges are raised by tax therein, and when collected shall be paid to the supervisor of the town. All of the provisions of section two hundred two-a of the town law, not inconsistent with the provisions of this act, shall apply. [Amended by Chapter 637 of the Laws of 1962]

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§ 11. No commissioner, officer, employee or agent of the district shall have any personal interest in any contract, lease or agreement executed pursuant to this act or in furnishing labor or materials for the district.

§12. If the courts of the state or of the United States shall adjudge any section or sections, provision or provisions of this act unconstitutional or void, then such determination shall affect only the section or sections, provision or provisions so adjudged to be unconstitutional or void, and shall not affect any other section or provision of this act. [Amended by Chapter 27 of the Laws of 1948]

§13. All contracts for public work and all purchase contracts shall be let to the lowest responsible bidder after advertisement for bids where so required by section one hundred three of the general municipal law. [Amended by Chapter 650 of the Laws of 1968]

§14. Notwithstanding the provisions of any general, special or local law inconsistent herewith, all acts done and proceeding taken by the board of ferry commissioners relating or pertaining to work performed and materials furnished by Thames Shipyard and Repair Company of New London, Connecticut, in relation to repairs and improvements to the ferry vessel Mystic Island owned by the Fishers Island Ferry District during the period from October 23, 1967 to January 31, 1968, are hereby legalized, validated, ratified and confirmed.

(b) Notwithstanding the provisions of any general, special or local law inconsistent therewith, the claim of Thames Shipyard and Repair Company of New London, Connecticut in the sum of \$30, 589.28 for repairs and improvements to the ferry vessel Mystic Isle during the period from October 23, 1967 to January 31, 1968 is hereby legalized, validated, ratified and confirmed, subject, however, to the audit thereof by the town board of the town of Southold in the manner provided by law, whereupon such claim may be paid from moneys of the Fishers Island Ferry District available therefor. [Amended by Chapter 650 of the Laws of 1968]

§15. (1.) The town board of the town of Southold on behalf of the district, may establish one or more reserve funds for the financing of all or part of the cost a “specific object or purpose” or a “class of objects or purposes”, as such terms are defined in Section 2.00 of the local finance law, which may be constructed, reconstructed, acquired or provided by or on behalf of such district. The authorization of the establishment of such a fund shall be subject to a permissive

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referendum in the district and shall set forth the estimated maximum cost of any such specific object or purpose or class thereof. [Amended by Chapter 916 of the Laws of 1983]

(2.) There may be paid into such fund such an amount as may be provided therefore by budgetary appropriation or such district revenues as are not required by law to be paid into any other fund or account. Any amount to be assessed, levied and collected in the district to provide money for such fund shall be assessed, levied and collected in the same manner and at the same time as the amount to provide for the costs of operation and maintenance of such district. [Amended by Chapter 916 of the Laws of 1983]

(3.) An expenditure may be made from such a reserve fund only by the authorization of the town board and only for a specific object or purpose or class thereof, the cost of which may be financed therefrom. [Amended by Chapter 916 of the Laws of 1983]

(4.) The town board may authorize the transfer to the credit of a reserve fund created pursuant to this section for the district, any unexpended balance remaining in another reserve fund created for the district. If the object or purpose or class thereof for which the latter funds was established has been completed, acquired or provided, a sum sufficient to satisfy all outstanding claims arising from such completion, acquisition or provision shall be retained in such fund and not transferred. [Amended by Chapter 916 of the Laws of 1983]

Section 16. Notwithstanding the provisions of this chapter, or the provisions of any other general or special law, the town board of the town of Southold shall not sell or convey any of the real property or interest in real property, located within the boundaries of the Fishers Island Ferry District at Fishers Island, in the Town of Southold, Suffolk County, acquired, used or intended to be used for any of the purposes of the Fishers Island Ferry District unless (1) such sale or conveyance shall have been approved in writing by a majority of the commissioners of the Fishers Island Ferry District and (2) such sale or conveyance shall have been approved by a majority vote of the electors of the ferry district and the owners of real property situate within the ferry district assessed upon the last preceding town assessment roll voting upon a proposition therefor to be submitted at a special or annual meeting of the ferry district. At least thirty days before any special or annual meeting to vote upon such a proposition, the ferry district commissioners shall adopt a resolution which shall designate the date and place of such meeting, the hours of opening and closing of the polls, which shall be not less than four (4) consecutive

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hours between eight o'clock in the forenoon and eight o'clock in the evening. The commissioners shall give notice of such meeting by the publication of a notice in a newspaper or newspapers having general circulation in the district, specifying the time when and place where such meeting will be held, the hours during which the polls will remain open for the purpose of receiving ballots and setting forth in full all propositions to be voted upon. The first publication of such notice shall be at least twenty days prior to the time of such meeting. In addition, the commissioners shall post, or cause to be posted, a copy of such notice in five public places in the district at least twenty days prior to the time of such meeting. In all other respects the meeting to vote on such proposition or propositions shall be conducted in the same manner as provided herein for voting at annual district meetings. [Amended by Chapter 669 of the Laws of 1987]