

FIRST AMENDMENT TO
PERMIT NO. 882
MILLENNIUM MARITIME, INC.

Permit No. 882 ("Agreement") between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners ("City"), and MILLENNIUM MARITIME, INC. ("Tenant"), is hereby amended a first time as follows:

WHEREAS, the City and Tenant entered into the Agreement, effective November 1, 2011, granting Tenant certain premises consisting of a portion of Berth 301 comprised of approximately 111,416 square feet of wharf space, 190,320 square feet of water area, and no backlands as shown on Drawing No. 45673 on file in the office of the Harbor Engineer for the purpose of tug and barge operations; and

WHEREAS, during negotiations leading to the execution of the Agreement, City and Tenant mutually failed to consider that, in addition to Rent set forth in Section 5 of the Agreement, Tenant's related entities, Westoil Marine Services, Inc. ("Westoil") and Olympic Tug & Barge, Inc. ("Olympic"), would incur Tariff charges set forth in Section 3.2 of the Agreement for dockage for tug and barge operations outside the Premises but within the Harbor District; and

WHEREAS, this mutual oversight resulted in Tenant's, Westoil's, and Olympic's expenses, and the City's overall compensation, for the subject tug and barge operations within the Harbor District to exceed all parties' expectations; and

WHEREAS, to remedy this oversight, the City and Tenant mutually desire to reduce the amount of permitted water area granted under the Agreement from 190,320 square feet to 43,786 square feet, to adjust compensation under the Agreement accordingly, and to waive certain dockage charges incurred by Westoil pursuant to a separate settlement agreement;

NOW, THEREFORE, City and Tenant agree as follows:

1. Defined Terms, References. Terms defined in the Agreement shall have the same meanings herein. References herein to "Sections" shall be to sections of the Agreement.

2. Premises. Notwithstanding the provisions of Section 3.1, commencing October 1, 2014, the Premises subject to the Agreement shall be a portion of Berth 301, which is comprised of approximately 111,416 square feet of wharf space, 43,786 square feet of water area, and no backlands as shown on Revision 1 to Drawing No. 45673 on file in the office of the Harbor Engineer. A copy of said drawing is marked Exhibit "A-1" and is attached hereto and made a part hereof.

3. Compensation. Notwithstanding the provisions of Section 5.1, beginning on October 1, 2014, Tenant shall pay in advance to City as Rent for the use of the Premises, in lawful money of the United States, the sum of Twenty Five Thousand Four Hundred Thirty Eight Dollars and Seventy Eight Cents (\$25,438.78) per month. The Rent shall be due and payable on or before the first day of each month during the term and shall be made payable to City of Los Angeles Harbor Department and mailed to the following address:

CITY OF LA – HARBOR DEPARTMENT
PO BOX 514300
LOS ANGELES, CA 90051-4300

or to such other address as Executive Director may designate in writing. The Rent adjustment set forth in Section 5.2 on the following Annual Adjustment Date shall be based upon the Rent set forth above.

4. No Changes Except as Stated Herein. Except as expressly amended herein, all remaining terms and conditions of the Agreement shall remain the same.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Permit No. 882 on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by its
Board of Harbor Commissioners

Dated: _____

By _____
EUGENE D. SEROKA
Executive Director

Attest _____
AMBER M. KLESGES
Board Secretary

MILLENNIUM MARITIME, INC.

Dated: 10-22-14

By: _____
HARLEY V. FRANCO
President

Attest: _____
Todd Prophet, VP.
(Type/Print Name and Title)

APPROVED AS TO FORM AND LEGALITY

October 28, 2014
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By: _____
JANET KARKANEN, Deputy

SETTLEMENT AGREEMENT AND RELEASE
By and Between
THE CITY OF LOS ANGELES
And
MILLENNIUM MARITIME, INC.
And
WESTOIL MARINE SERVICES, INC.
And
OLYMPIC TUG & BARGE, INC.

This Settlement Agreement and Release is entered into by and between the City of Los Angeles, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board"); Millennium Maritime, Inc., a Washington corporation ("MMI"); Westoil Marine Services, Inc. a California corporation ("Westoil"); and Olympic Tug & Barge, Inc., a Washington corporation ("Olympic") (collectively "parties" or individually "party").

RECITALS

A. WHEREAS, the City and MMI entered into Permit No. 882 ("Agreement"), effective November 1, 2011, granting MMI certain premises consisting of a portion of Berth 301 comprised of approximately 111,416 square feet of wharf space, 190,320 square feet of water area, and no backlands as shown on Drawing No. 45673 on file in the office of the Harbor Engineer ("Premises") for the purpose of tug and barge operations; and

B. WHEREAS, during negotiations leading to the execution of the Agreement, City and MMI mutually failed to consider that, in addition to rent set forth in Section 5 of the Agreement, MMI's related entities, Westoil and Olympic, would incur Tariff charges set forth in Section 3.2 of the Agreement for dockage for tug and barge operations outside the Premises but within the Harbor District; and

C. WHEREAS, this mutual oversight resulted in MMI's, Westoil's, and Olympic's expenses, and the City's overall compensation, for the subject tug and barge operations within the Harbor District to exceed all parties' expectations; and

D. WHEREAS, to remedy this oversight, the City and MMI mutually desire to reduce the amount of permitted water area granted under the Agreement from 190,320 square feet to 43,786 square feet, to adjust compensation under the Agreement accordingly, and to waive certain dockage charges incurred by Westoil; and

E. WHEREAS, the City, MMI, Westoil, and Olympic further desire to resolve all disputes between them arising out of or related to the Agreement and dockage charges incurred under Tariff No. 4 as of September 30, 2014, on the terms and conditions stated in this Settlement Agreement and Release.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. First Amendment to Permit No. 882:

1.1 The Board agrees to approve by resolution, and MMI agrees to execute, the proposed First Amendment to Permit No. 882 attached as Exhibit 1.

1.2 The parties understand that the Los Angeles City Council ("Council") may approve or disapprove the Board's resolution approving the proposed First Amendment to Permit No. 882. In the event the Council disapproves of the Board's resolution approving the proposed First Amendment to Permit No. 882, the parties agree that this Settlement Agreement and Release shall become void and unenforceable.

2. Payment of Dockage:

2.1 Westoil agrees to pay, and City agrees to accept, Fifty Three Thousand Seven Hundred Twenty Nine Dollars (\$53,729) in full satisfaction of the City's claims for dockage charges Westoil incurred under Tariff No. 4 for tug and barge operations within the Harbor District between November 1, 2011 and September 30, 2014 as reflected on the spreadsheet attached as Exhibit 2.

2.2 All dockage charges Westoil may incur for dockage charges under Tariff No. 4 for tug and barge operations within the Harbor District commencing October 1, 2014 and thereafter shall be due and payable to the City in full.

2.3 All dockage charges Olympic incurred in the past or will incur in the future remain due and payable to the City in full.

3. Specific Release:

3.1 Upon receipt of the payment due under Section 2.1 above, the City on behalf of itself and its board members, employees, agents, representatives, transferees, and assigns, fully and forever releases Westoil and its shareholders, officers, directors, employees, agents, representatives, transferees, and assigns, from any and all claims for dockage under Tariff No. 4 related to the operation of tugs and barges within the Harbor District incurred between November 1, 2011 and September 30, 2014.

3.2 Nothing in this Settlement Agreement and Release shall be construed as a waiver of, or amendment to, any of the City's or MMI's rights and obligations under the Agreement.

4. Other Provisions:

4.1 Each party shall bear its own attorneys' fees and costs associated with or arising out of the execution and any enforcement of this Settlement Agreement and Release.

4.2 Each party and each person executing this Settlement Agreement and Release has read the Settlement Agreement and Release and understands the contents and legal effect of each provision of the agreement. The party and person signing has consulted with one or more attorneys of that party's own choosing in entering into this Settlement Agreement and Release.

4.3 Each party and each person signing this Settlement Agreement and Release on behalf of a party has executed the Settlement Agreement and Release voluntarily and without the duress or undue influence on the part of, or on behalf of, any other party to this Settlement Agreement and Release, or any other person or entity.

4.4 This Settlement Agreement and Release contains the entire agreement and understanding concerning the subject matter of this Settlement Agreement and Release and supersedes and replaces all prior and contemporaneous negotiations and agreements between the parties, whether written or oral, concerning the subject matter of this Settlement Agreement and Release.

4.5 Each party has cooperated in the drafting of this Settlement Agreement and Release. No provision of this Settlement Agreement and Release shall be construed against any party based on a claim the party drafted the provision or caused an uncertainty as to any provision.

4.6 Each party and each person executing this Settlement Agreement and Release on behalf of a party represents and warrants that he or she has the full authority and the right to enter into this Settlement Agreement and Release. The officer, director, or other individual signing on behalf of a party has full authority to sign on that party's behalf and by so signing binds the party to the terms and conditions of this Settlement Agreement and Release.

(Signature page follows)

IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement and Release on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

Dated: _____

By _____
EUGENE D. SEROKA
Executive Director

Attest _____
AMBER M. KLESGES
Board Secretary

MILLENNIUM MARITIME, INC.

Dated: 10-22-14

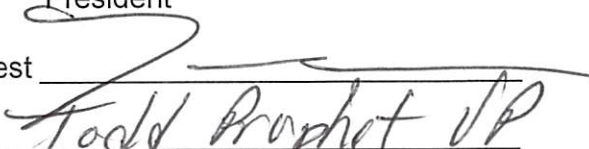
By 
HARLEY V. FRANCO
President

Attest 
Todd Prophet VP
Type/Print Name and Title

WESTOIL MARINE SERVICES, INC.

Dated: 10-22-14

By 
HARLEY V. FRANCO
President

Attest 
Todd Prophet VP
Type/Print Name and Title

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OLYPMIC TUG & BARGE, INC.

Dated: 10-22-14

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Attest 
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APPROVED AS TO FORM AND LEGALITY

October 28, 2014
MICHAEL N. FEUER, City Attorney

By: 
JANET KARKANEN, Deputy

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3. Compensation. Notwithstanding the provisions of Section 5.1, beginning

on October 1, 2014, Tenant shall pay in advance to City as Rent for the use of the Premises, in lawful money of the United States, the sum of Twenty Five Thousand Four Hundred Thirty Eight Dollars and Seventy Eight Cents (\$25,438.78) per month. The Rent shall be due and payable on or before the first day of each month during the term and shall be made payable to City of Los Angeles Harbor Department and mailed to the following address:

CITY OF LA – HARBOR DEPARTMENT
PO BOX 514300
LOS ANGELES, CA 90051-4300

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THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

Dated: _____

By _____
EUGENE D. SEROKA
Executive Director

Attest _____
AMBER M. KLESGES
Board Secretary

MILLENNIUM MARITIME, INC.

Dated: _____

By: _____
HARLEY V. FRANCO
President

Attest: _____

(Type/Print Name and Title)

APPROVED AS TO FORM AND LEGALITY

_____, 2014
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By _____
JANET KARKANEN, Deputy

Settlement Agreement Worksheet

Westoil Marine																
Barges	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Subtotal
Cypress L	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,087.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Starlight	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	
David Fanning	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	
Webb Mofett	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	
Anne Elizabeth	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	
Meghan 102	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	
Overall total	\$ 13,200.00	\$ 13,200.00	\$ 13,200.00	\$ 13,200.00	\$ 13,200.00	\$ 12,782.50	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 175,037.50
Reversal Amt	\$ 12,322.50	\$ 12,322.50	\$ 12,322.50	\$ 12,322.50	\$ 12,322.50	\$ 11,905.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 169,772.50
Total Westoil Still Owes	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,265.00

Barges	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	Subtotal
Starlight	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 3,937.50	\$ 4,005.00	\$ 4,005.00	\$ 4,005.00	\$ 4,005.00	\$ 4,005.00	\$ -	\$ -	\$ -	\$ -	\$ -	
David Fanning	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,717.50	\$ 1,717.50	\$ 1,717.50	\$ 1,717.50	\$ 1,717.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	
Webb Mofett	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,550.00	\$ 2,550.00	\$ 2,550.00	\$ 2,550.00	\$ -	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	
Anne Elizabeth	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,717.50	\$ 1,717.50	\$ 1,717.50	\$ 1,717.50	\$ 1,717.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	
Meghan 102	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 892.50	\$ 892.50	\$ 892.50	\$ 892.50	\$ 892.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50	
Lily Blair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	
Overall total	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,882.50	\$ 10,882.50	\$ 10,882.50	\$ 10,882.50	\$ 8,332.50	\$ 6,757.50	\$ 8,445.00	\$ 8,445.00	\$ 8,445.00	\$ 8,445.00	\$ 145,875.00
Reversal Amt	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,695.00	\$ 10,882.50	\$ 10,882.50	\$ 10,882.50	\$ 10,882.50	\$ 8,332.50	\$ 6,757.50	\$ 8,445.00	\$ 8,445.00	\$ 8,445.00	\$ 8,445.00	\$ 145,875.00
Total Westoil Still Owes	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Barges	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Subtotal	Totals
Hannah 2801				\$ 2,505.00	\$ 2,505.00		
David Fanning	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50		
Webb Mofett	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00	\$ 2,505.00			
Anne Elizabeth	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50		
Meghan 102	\$ 877.50	\$ 877.50	\$ 877.50	\$ 877.50			
Dale Frank Jr.				\$ 2,505.00	\$ 2,505.00		
Lily Blair	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50	\$ 1,687.50		
Overall total	\$ 8,445.00	\$ 8,445.00	\$ 8,445.00	\$ 13,455.00	\$ 10,072.50	\$ 48,862.50	\$ 369,775.00
Reversal Amt	\$ 8,445.00	\$ 8,445.00	\$ 8,445.00	\$ 8,445.00	\$ 10,072.50	\$ 43,852.50	\$ 359,500.00
Total Westoil Still Owes	\$ -	\$ -	\$ -	\$ 5,010.00	\$ -	\$ 5,010.00	\$ 10,275.00
Other Dockage Fees (Other vessels and daily dockage owed under "Westoil")							\$ 43,454.00
Total to be paid by Westoil							\$ 53,729.00
Grand Total Owed by Westoil							\$ 413,229.00