

CATALINA CHANNEL EXPRESS, INC.  
FIRST AMENDMENT TO  
PERMIT NO. 897

THE FIRST AMENDMENT TO PERMIT NO. 897 is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between THE CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board") and CATALINA CHANNEL EXPRESS, INC., a California corporation, Berth 95, San Pedro, CA 90731 ("Tenant").

WHEREAS, in 2011, the expansion the China Shipping container terminal necessitated the relocation of Tenant south of its prior Premises; and

WHEREAS, the need to proceed with the China Shipping expansion in a timely fashion required Tenant to be responsible for all tenant improvements, which included adaptive re-use of an existing Harbor Department building at Tenant's new relocation site, at a cost of over \$5.0 million; and

WHEREAS, during the course of construction, Tenant and the Harbor Department determined that certain modifications to the plans were necessary for the efficient and safe access to additional water space; and

WHEREAS, changes in the plans resulted in the need to expand the Premises to include access to both concrete ramps that were originally built for access to the Princess Louise and later to the Lane Victory; and

WHEREAS, the Harbor Department determined that the existing wooden wharf improvements needed to be removed to accommodate Tenant's installation of four (4) floating docks; and

WHEREAS, as a result of the changes in the construction plans, adjustments to both land and water areas are now necessary to properly reflect Permit No. 897 Premises and to adjust the Compensation accordingly;

WHEREAS, the Compensation terms of this First Amendment to Permit No. 897, which includes changes in Fixed Minimum Compensation amounts for the next five (5) year period of July 25, 2014 to July 24, 2019, Consumer Price Index (CPI) adjustments, and Percentage Compensation are part of the Settlement Agreement that is being presented concurrently to the Board of Harbor Commissioners and the City Council to settle any and all claims, disputes and controversies, including those asserted in connection with the events which occurred on or about October 17, 2012, November 8, 2012, and May 2, 2012, wherein the City allegedly failed to refund overpaid rent and to pay interest on the refund of overpaid rent and as filed by Tenant with the Los Angeles City Clerk on December 17, 2012, being Claim File Nos. C13-2283, C13-2284 and C13-2285; and

NOW THEREFORE, the parties agree as follows:

Article 1. Section 3.1 **Description** is deleted in its entirety and replaced by the following:

Section 3.1 **Description.** On the effective date of the First Amendment, the Permit shall entitle Tenant to use and occupy the Premises as depicted on Exhibit A-1 hereto ("Site Plan") consisting of:

- (a) Parcel 1 – consisting of 7,544 square feet (s.f.) of improved warehouse building;
- (b) Parcel 2 – consisting of 38,448 s.f. of unimproved space;
- (c) Parcel 3 – consisting of 59,719 s.f. of water area and two (2) concrete ramps;
- (d) Parcel 4 – consisting of 18,268 s.f. of berth and water area;
- (e) Parcel 5 – consisting of 19,424 s.f. of water area, effective May 1, 2014;
- (f) Preferential use of Parcel 6 – consisting of 15,683 s.f. of water area; and
- (g) Preferential Use of Parcel 7 – consisting of 28,855 s.f. of paved land area.

Parcels 1 through 7 of Exhibit A-1 (Drawing No. 45639-1) shall collectively be known as the "Premises."

Article 2. Section 5.3.1 is deleted in its entirety and replaced by the following:

5.3.1 For the following periods of this Agreement, Tenant shall make monthly payments, in lawful money of the United States as follows:

First Year:	July 25, 2012 – July 24, 2013	
	Five Thousand Twenty Seven Dollars	(\$5,027)
Second Year:		
	July 25, 2013 to November 30, 2013	
	Five Thousand Eight Hundred Sixty-Five Dollars	(\$5,865)
	December 1, 2013 to April 30, 2014	
	Six Thousand Eight Hundred Thirty-Eight Dollars	(\$6,838)
	May 1, 2014 to July 24, 2014	
	Seven Thousand Seven Hundred Seventy-Seven Dollars	(\$7,777)
Third Year:	July 25, 2014 – July 24, 2015	
	Eight Thousand Seven Hundred Fifty-Three Dollars	(\$8,753)
Fourth Year:	July 25, 2015 – July 24, 2016	
	Nine Thousand Seven Hundred Thirty Dollars	(\$9,730)

Fifth Year to end of Seventh Year: July 24, 2016 – July 25, 2019

Ten Thousand Seven Hundred and Seven Dollars

(\$10,707)

Article 3. Section 5.3.2 is deleted in its entirety and replaced by the following:

5.3.2 Thereafter, the Fixed Minimum Compensation payable under this Agreement shall be re-set every five (5) year period pursuant to the method set forth in Section 5.11. Effective July 25, 2023, the Fixed Minimum Compensation shall also be adjusted for inflation employing the adjustment method set forth in Section 5.3.3. by making an initial one (1) time adjustment to reflect the Consumer Price Index (CPI) increases that have been deferred (2019-2020, 2020-2021, 2021-2022, and 2022-2023) since the last Fixed Minimum Compensation reset. Every year thereafter, the Compensation rate shall be subject to annual adjustments pursuant to the CPI index, as set forth in Section 5.3.3.

Article 4. Section 5.4.2.1 is deleted in its entirety and replaced by the following:

5.4.2.1 Tenant shall not pay Percentage Compensation until July 25, 2023. Thereafter, Tenant shall pay to City for each and every month, Percentage Compensation equal to five percent (5%) of Gross Receipts that exceed the Fixed Minimum Compensation on an annual basis.

Article 5. Section 5.4.2.2 is deleted in its entirety.

Article 6. Section 5.4.6 is deleted in its entirety and replaced by the following:

5.4.6 In the event the varying nature of the business causes the amount of Percentage Compensation for a period year to fluctuate, Tenant may be eligible for credit applicable to future rents from the City. The amount of the credit is the difference between (1) the amount of Compensation actually paid during the Permit year (assuming Tenant has paid all Compensation as it becomes due during the Permit year), and (2) Tenant's annual Gross Receipts multiplied by the percentage figure set forth above. In no event shall Tenant's total Compensation be less than the Fixed Minimum Compensation. Tenant shall be entitled to the credit only if the Tenant is not in default. If Tenant is eligible for a credit, the credit shall be issued within ninety (90) days of the end of the Permit year for which the credit is due provided that:

- a. all monthly gross receipt statements have been delivered by Tenant to City;
- b. the financial statements required by Section 5.4.3 above pertaining to the previous Permit year were provided as required in Sections 5.4.3 and 5.4.3.1 above; and
- c. during this ninety-day (90-day) period, any eligible credit potentially due to the Tenant will be subject to review and adjustment upon subsequent receipt of reviewed financials by the Tenant that pertain to the Permit year to which the credit applies.

Article 7. Section 5.11 **Renegotiation of Compensation** is amended by changing the first sentence to read as follows:

The Compensation to be paid by Tenant to Board shall be readjusted for each and every five (5) year period, after the period set forth in Section 5.3.1 (July 24, 2019), except with respect to the Percentage Compensation. The first readjustment of Percentage Compensation pursuant to Section 5.11 shall occur after the fifteenth (15<sup>th</sup>) year, and shall thereafter be readjusted for each five (5) year period or any portion thereof.

Except as amended herein, all terms and conditions of Permit No. 897 shall remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Permit No. 897 on the date to the left of their signatures.

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

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Executive Director

Attest \_\_\_\_\_  
Board Secretary

CATALINA CHANNEL EXPRESS, INC.

Dated: 07.02.14

By [Signature]  
(Type/Print Name and Title)  
GREG BOMBARDI / PRESIDENT  
Attest MARK HERBERG  
DIRECTOR OF FACILITIES  
(Type/Print Name and Title)

APPROVED AS TO FORM AND LEGALITY

July 8, 2014  
MICHAEL N. FEUER, City Attorney  
JANNA B. SIDLEY, General Counsel

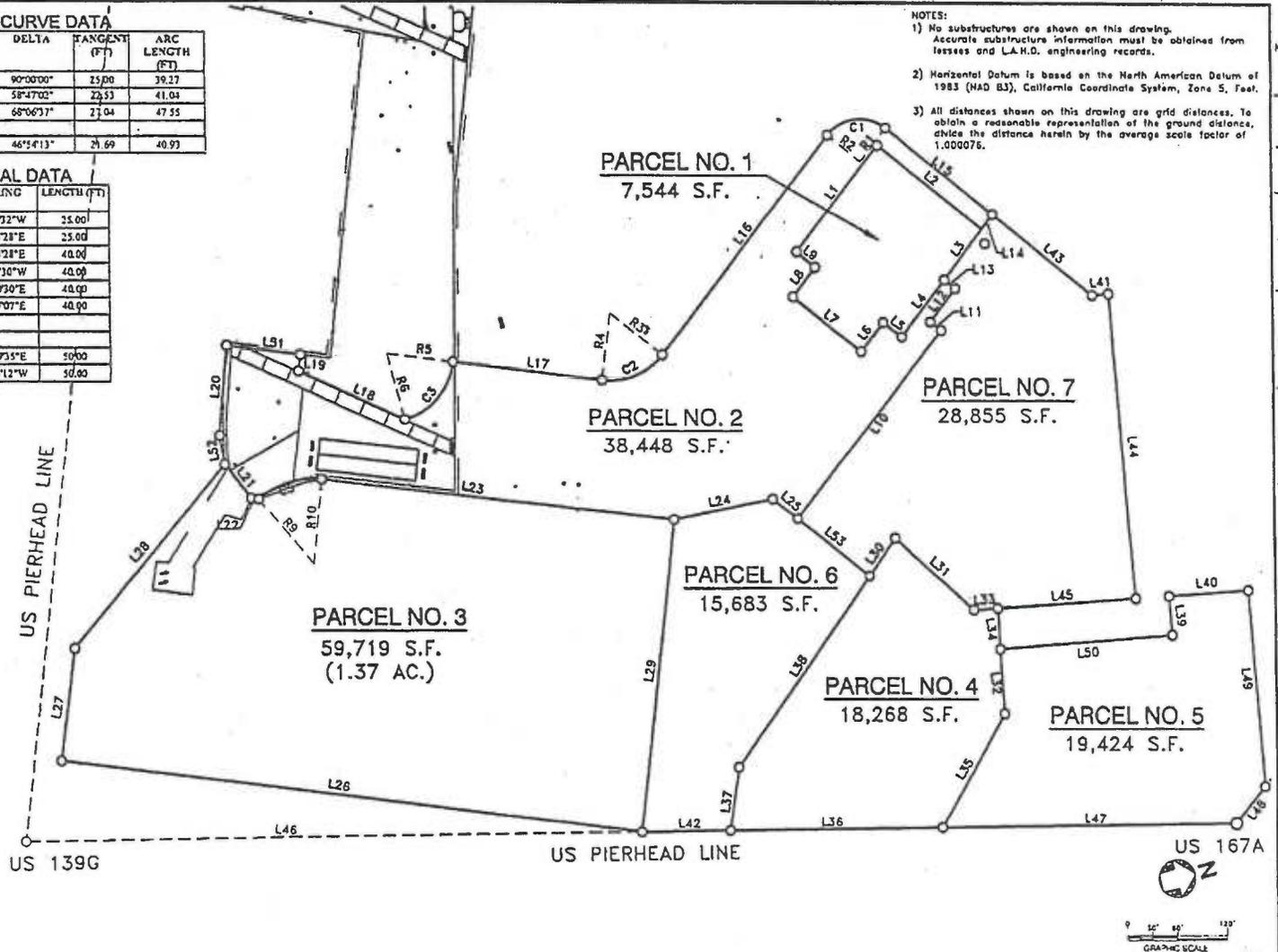
By [Signature]  
CHRISTOPHER B. BOBO, Assistant

CBB/jrs  
7/3/14

LINE DATA		
LINE NO.	BEARING	LENGTH (FT)
L1	N36°56'32"W	80.00
L2	N53°03'28"E	80.00
L3	N36°56'32"W	37.44
L4	N36°56'32"W	42.57
L5	N53°03'28"E	14.00
L6	N36°56'32"W	22.00
L7	N53°03'28"E	52.00
L8	N36°56'32"W	22.00
L9	N53°03'28"E	14.00
L10	N36°56'32"W	142.57
L11	N53°03'28"E	8.18
L12	N36°56'32"W	24.65
L13	N53°03'28"E	8.28
L14	N36°56'32"W	10.87
L15	N53°03'28"E	82.07
L16	N36°56'32"W	163.51
L17	N21°50'30"E	90.00
L18	N39°40'59"E	69.54
L19	N68°09'10"W	9.77
L20	N69°59'43"W	53.24
L21	N66°25'24"E	25.60
L22	N22°07'44"E	4.34
L23	N21°23'48"E	212.56
L24	N37°23'4"E	60.76
L25	N53°03'28"E	18.93
L26	N22°07'44"E	350.73
L27	N67°39'31"W	66.93
L28	N34°49'20"W	141.35
L29	N68°27'4"W	186.56
L30	N39°37'45"W	27.05
L31	N36°28'30"E	63.12
L32	N78°22'16"W	38.31
L33	N11°09'20"E	14.63
L34	N78°22'16"W	24.06
L35	N45°38'16"W	76.67
L36	N14°09'13"E	128.30
L37	N66°53'02"W	38.91
L38	N39°37'45"W	138.49
L39	N79°33'34"W	22.94
L40	N11°09'18"E	48.09
L41	N10°26'26"E	104.39
L42	N14°09'13"E	53.04
L43	N53°03'28"E	76.05
L44	N79°33'34"W	180.97
L45	N11°09'20"E	63.79
L46	N14°09'13"E	370.06
L47	N14°09'13"E	178.07
L48	N37°14'16"W	28.92
L49	N79°33'34"W	116.13
L50	N10°26'26"E	104.39
L51	N21°55'12"E	44.80
L52	N84°53'49"W	17.85
L53	N51°03'28"E	54.61

CURVE DATA			
CURVE NO.	RADIUS (FT)	DELTA	TANGENT (FT)
C1	25.00	90°00'00"	25.00
C2	40.00	58°47'02"	22.53
C3	40.00	68°06'37"	27.04
C4	40.00	68°06'37"	27.04
C5	50.00	46°54'13"	21.69

RADIAL DATA		
LINE NO.	BEARING	LENGTH (FT)
R1	N36°56'32"W	25.00
R2	N53°03'28"E	25.00
R3	N53°03'28"E	40.00
R4	N68°09'10"W	40.00
R5	N21°50'30"E	40.00
R6	N89°57'07"E	40.00
R7	N68°09'10"W	40.00
R8	N68°09'10"W	40.00
R9	N64°29'35"E	50.00
R10	N68°36'12"W	50.00



SHEET NO. 1 DATE 12/21/14 PROJECT CATALINA CHANNEL PARCEL NO. 1-7	SCALE 1"=100' DRAWN BY [Signature] CHECKED BY [Signature]	PERMIT MAP - AUTHORITY NO. P897 <b>CATALINA CHANNEL EXPRESS, INC.</b> ENGINEERING DIVISION 437 S. PALM, LOS ANGELES, CA 90011-1480 45639
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