

**CITY OF OAKLAND**  
**LEASE TERMINATION AGREEMENT**  
**WITH OAKLAND MARITIME SUPPORT SERVICES, INC.**

**THIS LEASE TERMINATION AGREEMENT** ("Agreement") is made this 14<sup>th</sup> day of October, 2013 (the "**Effective Date**"), by and between the CITY OF OAKLAND, a municipal corporation (the "**City**"), and OAKLAND MARITIME SUPPORT SERVICES, INC., a California corporation ("**OMSS**") (together, the "**Parties**"), who agree as follows:

**RECITALS:**

**WHEREAS**, the Redevelopment Agency of the City of Oakland ("**Redevelopment Agency**") and OMSS entered into that certain agreement dated August 7, 2006 (the "**Lease**") to lease the premises described approximately 704,859 square feet (which includes approximately 7,200 square feet for a Maintenance Area and 1,248 square feet for a Scale Area) of fenced yard space at 2500 Alaska Street, Oakland, California at the Army Base (the "**Premises**");

**WHEREAS**, the Redevelopment Agency transferred the Army Base property, including the Premises, to the City of Oakland on January 31, 2012;

**WHEREAS**, the City of Oakland is obligated to provide truck parking facilities at the Oakland Army Base pursuant to San Francisco Bay Conservation and Development Commission (BCDC) Resolution No. 07-07;

**WHEREAS**, on June 19, 2012, the City Council authorized the execution of a \$247 million Design-Build Contract to construct Public Improvements at the former Army Base to replace 60-year old failing infrastructure with modern, code compliant, state of the art infrastructure;

**WHEREAS**, a large scale, \$247 million Public Infrastructure construction project requires site control free of tenancies;

**WHEREAS**, on September 13, 2013, the Alameda County Sheriff's Office returned possession of the Premises to the City of Oakland through a Writ of Possession and OMSS vacated the Premises pursuant to the Writ of Possession;

**WHEREAS**, the Parties intend by this Agreement to resolve the status of any outstanding monetary terms of the Lease and the final condition of Premises as set forth herein;

**NOW, THEREFORE**, in consideration of the following, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**1. Security Deposit.** Seventy Thousand Dollars (\$70,000.00) reflects the total amount of the security deposit paid under the Lease by OMSS (the "**Security Deposit**"), and the City will return the Security Deposit to OMSS within fourteen (14) calendar days of the Effective Date.

**2. Condition of the Premises after Writ of Possession Action.** As of the Effective Date, the Premises are in a broom clean condition.

3. **Rent During Interim Leasing Program Closure.** From June 1, 2013 to September 13, 2013, the closing of the Army Base Interim Leasing Program and the City's existing truck parking facility and the transition to vacating the Premises created uncertainty among truck parking operations at the Premises and loss of revenue and operating capacity, therefore, the City has waived OMSS's rent during this period to offset the loss of revenue and allow these monies to be used to reimburse for relocation costs.

4. **Amounts Due.** The Parties agree there are no outstanding amounts due by either party.

5. **Survival of Rights and Liabilities.** The rights and liabilities of the Parties arising prior to the termination of OMSS's tenancy, and any obligations which shall survive the termination of the Lease, shall not be affected by the termination of OMSS's tenancy.

6. **Interpretation.** If any provision of this Agreement or any application thereof is invalid, void or illegal, no other provision or application will be affected. Time is of the essence of every provision of this Agreement. California law governs this Agreement. In the event of any conflict between a provision in the Lease and a provision in this Agreement, the latter will control. All terms not separately defined herein shall have that meaning ascribed to them in the Lease.

7. **Binding Effect.** This Agreement will be binding upon and will inure to the benefit of the respective Parties hereto, their respective legal successors, heirs, administrators and assigns, and each of them.

8. **Attorneys Fees.** Should any suit be brought to enforce or interpret the terms of this Agreement or any obligation herein, the prevailing party will be entitled to recover its reasonable attorneys' fees, costs and expenses.

9. **Representation.** This Agreement is freely and voluntarily entered into by the Parties, who each had the opportunity to obtain the advice of independent legal counsel prior to signing this Agreement. Each party acknowledges that they have read this entire Agreement, that they had a full opportunity to have had this Agreement fully explained by legal counsel of their choice, and that they fully understand and appreciate the words, terms, conditions, and legal significance of this entire Agreement.

10. **Entire Understanding.** This Agreement sets forth the entire understanding of the Parties in connection with the subject matter hereof. None of the Parties hereto has made any statement, representation, or warranty in connection herewith which has been relied upon by any other party hereto or which has been an inducement for any party to enter into this Agreement, except as expressly set forth herein. It is expressly understood and agreed that this Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by authorized representatives of the Parties hereto. The Parties agree that they will make no claim at any time that this Agreement has been altered or modified or otherwise changed by oral communication of any kind of character.

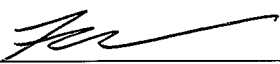
11. **Execution.** The Parties and the persons executing this Agreement on behalf of the Parties represent and warrant that they are duly authorized and empowered so to execute and deliver this Agreement, and that this Agreement is binding upon the Parties in accordance with its terms.

12. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be an original, and all of which will constitute an agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

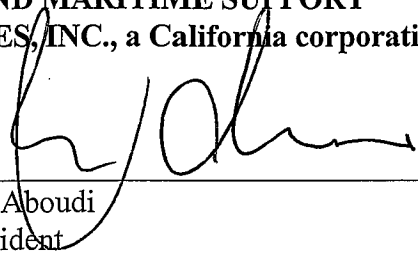
**CITY OF OAKLAND, a municipal  
corporation**

By: \_\_\_\_\_


  
Deanna J. Santana  
City Administrator

**OAKLAND MARITIME SUPPORT  
SERVICES, INC., a California corporation**

By: \_\_\_\_\_

  
Bill Aboudi  
President

Approved as to Form:

  
Office of City Attorney  
COUNSEL TO THE CITY