

FEDERAL MARITIME COMMISSION

AGREEMENT NO.

201219-001

THE LOS ANGELES AND LONG BEACH PORT INFRASTRUCTURE
AND ENVIRONMENTAL PROGRAMS COOPERATIVE WORKING AGREEMENT

Original Effective Date: _____ March 3, 2013

Expiration Date: _____ None

Los Angeles and Long Beach
Port Infrastructure and Environmental Programs Cooperative Working Agreement
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**A COOPERATIVE WORKING AGREEMENT BETWEEN
THE CITY OF LOS ANGELES AND THE CITY OF LONG BEACH**

ARTICLE I - FULL NAME OF THE AGREEMENT

This Agreement shall be known as the Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement, hereinafter referred to as the "Agreement".

ARTICLE II - PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to promote cooperation, openness and joint action through means of discussion, consultation, development of consensus and agreement between the Cities of Los Angeles and Long Beach ("the Parties") for the establishment and implementation of programs and strategies to (i) improve port-related transportation infrastructure, (ii) increase cargo movement efficiencies and port capacities, (iii) improve the safety and security of port terminals and properties, and (iv) decrease port-related air pollution emissions in the San Pedro Bay area.

The Ports of Los Angeles and Long Beach are a contiguous port complex located in California's South Coast Air Basin, an area with one of Los Angeles County, California, and together are responsible for the worst air quality problems in the nation transportation through-put of approximately forty percent of containerized commercial cargo entering the United States via ocean common carriage. Collectively, tenant operations at the two ports are significant contributors to the air quality problem and, historically, each port has addressed the issue separately by implementing a wide range of environmental initiatives. Inconsistent or conflicting transportation projects and environmental measures implemented by each city may have unintended or counterproductive effects on air quality improvements. Therefore, through the authority of this Agreement, the Parties seek to accommodate projected trade growth volumes through implementation of jointly approved transportation infrastructure improvement plans and environmental

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~~projects. The goal for these joint actions is to increase the efficiency of cargo movement through the port area while concurrently addressing adverse environmental impacts such as air pollution emissions and improving port area security and safety. In addition, the Parties, the goods movement industry and the communities~~
Through the authority of this Agreement, the Parties seek to accommodate current and projected trade volumes through discussion of a variety of issues facing the two ports to identify solutions and implement jointly approved transportation infrastructure improvement plans and projects. The goal for these joint actions is to increase the efficiency of cargo movement through the port complex while concurrently addressing adverse environmental impacts such as air pollution emissions and improving port area security and safety. Although each port has the ability to address these issues separately by working with its specific tenants and customers to undertake a wide range of initiatives, inconsistent or conflicting projects and programs implemented by each city may have unintended or counterproductive effects on the transportation system in the region. Moreover, as landlord marine terminal operators, the Parties are in a unique position to serve as facilitators for discussion among all industry stakeholders and, where appropriate, implement solutions to the issues facing the ocean transportation industry operating through the two ports.

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~~will benefit from the Parties' cooperation in measures to ensure appropriate physical security, access control, cargo handling security and intermodal cargo transportation (rail and drayage trucks).~~

ARTICLE III - PARTIES TO THE AGREEMENT

The parties to the Agreement are the City of Los Angeles and the City of Long Beach, municipal corporations, acting by and through their respective Boards of Harbor Commissioners.

ARTICLE IV - GEOGRAPHIC SCOPE OF THE AGREEMENT

This Agreement covers the geographic scope of the ports of Los Angeles and Long Beach, California.

ARTICLE V - OVERVIEW OF AGREEMENT AUTHORITY

A. The Parties may from time to time meet to confer, discuss, exchange information and agree on a voluntary basis with respect to rates, charges, operating costs, projects, programs, practices, legislation, and regulations, and relating to marine terminal operations, including port trucking operations, rail operations and vessel operations, regarding at the two ports. With respect to the foregoing variety of operations, the Parties may discuss, agree upon and collaborate on various matters for including but not limited to the funding, establishment and construction of (i) port-related transportation projects and programs involving or related to the various modes of transportation at the port, namely, ocean-going vessels, marine terminals, railroads and trucks, (ii) port-related transportation infrastructure projects, (iii) environmental programs, and (iii) safety and security programs. Transportation infrastructure and environmental projects may include, but are not limited to, truck and engine replacement programs; engine and equipment fuel use and emissions standards and incentives; ~~and~~ bridge, rail and roadway improvements; projects, programs and practices regarding 1) vessel calls and operations; 2) marine terminal operations, including gate hours and pick-up/drop-off appointment systems; 3) drayage truck operations at the ports, including queuing and turn times; 4) chassis issues including availability,

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operations and storage; and 5) railroad operations in and surrounding the two ports. The parties are also authorized to discuss potential impacts resulting from any projects, policies, programs or regulations adopted ~~under the Clean Air Action Plan~~ implemented by the Parties that may apply to truck and rail sectors outside of the port properties. Safety and security programs may include, but are not limited to, the development and implementation of requirements and common security systems at access and egress points in port terminals.

B. The Parties may seek input and gather information on matters concerning the establishment and implementation of programs and strategies to improve port-related transportation infrastructure, environmental, safety and security projects and programs from users of the services and facilities provided by the Parties to this Agreement, including marine terminal operators, ocean common carriers, third party logistics providers, equipment providers, railroad companies, beneficial cargo owners, labor unions, drayage operators and other service providers to port operations. Ocean common carriers and marine terminal operators may provide information to the Parties, as well as attend and participate in public or private meetings as set forth in the Ralph M. Brown Act, California Government Code, Section 54950 et seq., but shall not participate in any decisions made by the Parties to the Agreement. Information sharing and attendance and commenting in public or private meetings by ocean common carriers and marine terminal operators shall not be deemed participation in the deliberation and decision making authority granted by this Agreement.

C. It is understood that the Parties may in the future by amendment to this Agreement, subject to the requirements of the Shipping Act of 1984, as amended, broaden the authority regarding this agreement.

D. The Parties acknowledge that joint projects and programs under this Agreement may require approval from one or both of the Parties' respective boards of commissioners and city councils. The Parties contemplate entering into joint agreements before undertaking any joint projects or programs, which shall, to the extent required by the Shipping Act of 1984, as amended, be filed with the Federal Maritime Commission.

E. The Parties agree to discuss, exchange information, cooperate and, to the extent each Port in its sole discretion deems appropriate, coordinate the adoption and implementation of programs to

reduce truck emissions and to improve Port safety and security-(Clean-Truck-Programs). The Clean Truck Programs implemented by the Ports may include the following:

1. Adoption of drayage truck deadlines, whereby Port terminal operators grant access to Port

~~terminals to drayage trucks that meet U.S. EPA emissions standards for particular model year trucks. Specific deadlines, model year and emissions thresholds, exemptions and administrative procedures shall be prescribed in each Port's tariff or otherwise noticed to the public, to the extent consistent with applicable law.~~

- ~~2. Adoption of a clean truck fee, assessed on containerized merchandise entering or leaving the Ports by drayage truck, to be paid by the cargo owner, for a fund to be used by the Boards of Harbor Commissioners exclusively for the replacement and retrofit of drayage trucks that service the Ports. The level of the fee, exemptions, and rules and requirements for its collection shall be prescribed in each Port's tariff or otherwise noticed to the public, to the extent consistent with applicable law.~~
- ~~3. Adoption of concession programs with Licensed Motor Carriers, whereby Port terminal operators shall grant access to Port terminals to those drayage trucks that are authorized under a concession agreement with the Ports. The Ports may discuss and, to the extent each Port in its sole discretion deems appropriate, coordinate concession requirements for Licensed Motor Carriers, including: environmental compliance; vehicle and driver safety and security; parking and routes in the community near the Ports; vehicle maintenance; driver credentialing and other security measures; driver licensing, qualifications and requirements; truck identification systems; assessment of concession-related fees; insurance; and compliance with other applicable laws, rules and regulations. The specific requirements for each Port's concessionaires, including the concession agreements themselves, shall be maintained on each Port's websites, at www.portoflosangeles.org and www.polb.com.~~

F. The parties may agree to discuss, exchange information, cooperate and, to the extent each Port

in its sole discretion deems appropriate, coordinate the adoption of ~~the adoption of~~ infrastructure fees assessed on containers to support an infrastructure fund, which funds shall be used to fund approved infrastructure projects approved by each Port's Board of Harbor Commissioners. The level of any fee that may be agreed upon, any exemptions, and any rule or requirement for its computation and collection shall be prescribed in each Port's tariff or otherwise noticed to the public to the extent consistent with applicable law.

G. The parties may agree to discuss, exchange information, cooperate and, to the extent each Port in its sole discretion deems appropriate, coordinate the adoption of ~~the adoption of~~ environmental programs to promote the reduction of air pollution from ocean vessels. The rules for any fuel or vessel speed that may be agreed upon, any incentives, and any rule or requirement for its computation and collection shall be prescribed in each Port's tariff or otherwise noticed to the public, to the extent consistent with applicable law.

H. The parties may discuss, agree, cooperate and share information regarding the implementation and evaluation of their Clean Truck Programs, infrastructure fees, and ocean vessel programs, including the adoption of standards for recordkeeping, databases (including development of a registry of drayage trucks), hardware and software, and other systems for identifying and granting access to drayage trucks, and may retain common vendors (either individually or jointly) to assist with implementation of the Programs, including administration and information technology-related functions. The parties may retain a third party vendor to administer the Ports' respective concession programs.

I. Nothing in this agreement shall be interpreted to require a Port to obtain approval or consent from the other Port before making any changes to its own Clean Truck Program, infrastructure fee requirements, ocean vessel programs, or any tariff requirements established thereunder.

ARTICLE VI - OFFICIALS OF THE AGREEMENT AND DELEGATION OF AUTHORITY

A. Co-Chairs

Two Co-Chairs shall call and preside over all meetings held pursuant to this agreement.

The two Co-Chairs will consist of one individual representing the City of Los Angeles and one individual representing the City of Long Beach. Each Party shall have the authority to appoint its respective Co-Chair and each Party may appoint a replacement Co-Chair upon written notice to the other Party. Any future appointments of Co-Chair representatives will be effective upon filing notice with the Federal Maritime Commission. The ~~initial~~ Co-Chairs are:

- 1) City of Los Angeles Harbor Department Executive Director ~~Geraldine Knatz, Ph.D., whose address is 425 S. Palos Verdes Street, San Pedro, California 90731.~~
- 2) City of Long Beach Harbor Department Chief Executive Director J. Christopher Lytle, whose address is 925 Harbor Plaza, Long Beach, California 90802.

At their discretion, the Co-Chairs may designate their respective executive management or staff personnel to chair and attend meetings in their absence, and said designees may be changed from time to time and from meeting to meeting as may be necessary, and all such designations shall be reflected in meeting minutes prepared and filed with the Federal Maritime Commission.

B. Secretary

The parties to this Agreement shall select a Secretary from among the party members to be responsible for all administrative tasks as directed by the parties hereto. The ~~initial~~ Secretary of this Agreement is the Los Angeles City Attorney's Office, whose address is 425 S. Palos Verdes Street, San Pedro, California 90731. The Secretary, or a designee attending the meeting for each party, shall keep a minute record of the proceedings of ~~the~~ all meetings of ~~(i) the Boards of Harbor Commissioners of the~~

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Cities held by the Parties to this Agreement in which actions are taken related to the subject matter of this

Agreement, ~~(ii) Clean Trucks Program Executive Committee, (iii) the Clean Trucks Program~~

~~Coordination Committee~~. Copies of the minute records, to the extent they reflect activities subject to the

jurisdiction of the Federal Maritime Commission and any other exchanged materials shall be furnished by

the Secretary to the Federal Maritime Commission and to each Party. These minute

records, to the extent they reflect activities subject to the jurisdiction of the Federal Maritime

Commission, shall be filed in accordance with the requirements of the Federal Maritime Commission's regulations and shall be certified by the Secretary as to their accuracy.

C. Committees

The Co-Chairs may appoint such committees as may, from time to time, be necessary, and such committees may meet from time to time as may be necessary to accomplish their assignments. At meetings held by these committees, the Co-Chairs and the Secretary shall be entitled to participate *ex officio*.

1. Each such committee shall keep accurate minutes of each meeting, whether in person or by telephone conference, recording subjects discussed and recommended actions, and such minutes shall be promptly filed with the Co-Chairs. ~~Each such committee shall also make an oral report of subjects discussed and views expressed within the committee to the full membership at each meeting, same to include all activities since the last report to the membership.~~
2. Any committee formed under this article shall be entitled to have and exercise all the applicable rights, privileges and processes as set out in this Agreement, and which are available to the parties of the Agreement as a whole.

D. Meetings

1. Meetings of the parties to this Agreement may be called by either member commencing on the effective date of this Agreement.
2. Meetings may be held in person or by telephone or video conference call, or other means agreed to by the members.

ARTICLE VII - MEMBERSHIP AND WITHDRAWAL

The City of Los Angeles and the City of Long Beach, acting by and through their respective Boards of Harbor Commissioners, are the Parties to this Agreement, and either party may withdraw from membership upon ninety (90) days written notice to the other party. If either party withdraws from the Agreement, the Federal Maritime Commission shall be promptly informed of such termination, and the Agreement shall become ineffective upon said filing with the Federal Maritime Commission.

ARTICLE VIII - DURATION AND TERMINATION OF THIS AGREEMENT

This Agreement shall remain in effect until either party provides the other party written notification of its intent to terminate this Agreement.

In the event that either party elects to terminate this Agreement, the Parties shall conclude their current activities relating to the Agreement and return all documents evidencing shared information to the originating party.

Any termination of this Agreement or suspension of future performance under this Agreement shall not relieve the Parties of liability for any obligation previously incurred.

ARTICLE IX - AMENDMENTS

This Agreement may be amended at any meeting provided that such amendment is filed with the Federal Maritime Commission and effective under the Shipping Act of 1984, as amended.

ARTICLE X - FILING AGENT

Each of the Parties appoints the Los Angeles City Attorney's Office, 425 S. Palos Verdes Street, San Pedro, California 90731, as its representative authorized on their behalf to file this Agreement, and to make

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all other filings on their behalf with the Commission relating to this Agreement, including the filing of minutes required by 46 C.F.R. § 535.704.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date to the left of their signatures.

This Agreement and each amendment to or republication of this Agreement may be executed in one or more counterparts, and all of such counterparts shall constitute one Agreement, notwithstanding that all Parties are not signatory to the same counterpart.

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

Dated: _____

By: _____
~~Geraldine Knatz, Ph.D.~~ Eugene D. Seroka
Executive Director

Attest: _____
Board Secretary

APPROVED AS TO FORM

_____, 2014
MICHAEL N. FEUER, City Attorney

By _____
Heather M. McCloskey, Deputy

THE CITY OF LONG BEACH, acting by and through
its Board of Harbor Commissioners

Dated: _____

By: _____
~~J. Christopher Lytle~~ Jon D. Slangerup
Chief Executive Director

Attest: _____
Board Secretary

APPROVED AS TO FORM

_____, 2014
CHARLES PARKIN, City Attorney

By _____
Dominic Holzhaus, Principal Deputy