

Original Title Page

LOS ANGELES/LONG BEACH PORT/TERMINAL OPERATOR
ADMINISTRATION AND IMPLEMENTATION AGREEMENT

FMC AGREEMENT NO. _____

A Marine Terminal Agreement as defined in 46 C.F.R. 535.308

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ARTICLE I. FULL NAME OF THE AGREEMENT

The full name of this agreement is the Los Angeles/Long Beach Port/Terminal Operator Administration and Implementation Agreement (hereinafter "Agreement").

ARTICLE II. PURPOSE OF THE AGREEMENT

Whereas the Ports have sought the assistance of their resident terminal operators with respect to the administration and operation of port programs relating to port security, infrastructure, or clean air, such as the testing and implementation of the Transportation Workers Identification Credential ("TWIC"); whereas the Ports have approved or expect to approve their Clean Air Action Plan ("CAAP") and wish to explore the possibility that terminal operators assist or cooperate in the administration of certain CAAP programs or initiatives on their behalf; whereas the terminal operators have an interest in ensuring that programs adopted by the Ports are implemented efficiently and without unnecessary disruption of terminal operations or the commerce served by the terminals; the purpose of this Agreement is to authorize the parties to collect and exchange information, engage in discussions, and reach agreement with respect to the administration and operation of programs in a manner that will benefit the Los Angeles/Long Beach port community. It is a further purpose of this Agreement to authorize discussion, agreement and implementation of operational and/or administrative measures intended to reduce and/or prevent congestion on and near marine terminal premises and/or at the gates to/from such terminals and to increase the efficiency of such terminals and the Ports.

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ARTICLE III. PARTIES TO THE AGREEMENT

The parties to the Agreement (hereinafter referred to individually as a "party"
and jointly as the "parties") are:

1. The West Coast MTO Agreement, FMC Agreement No. 201143, and each of its individual marine terminal operator members, a list of whom is attached hereto ("WCMTOA")

Address: 444 West Ocean Blvd.
Suite 700
Long Beach, CA 90802

2. The City of Los Angeles, acting by and through its Board of Harbor Commissioners ("POLA")

Address: 425 S. Palos Verdes Street
San Pedro, CA 90731

3. The City of Long Beach, acting by and through its Board of Harbor Commissioners ("POLB")

Address: 4801 Airport Plaza Drive
Long Beach, CA 90815

POLA and POLB are hereinafter referred to jointly as the "Ports."

ARTICLE IV. GEOGRAPHIC SCOPE OF THE AGREEMENT

The geographic scope of this Agreement is the area in and around marine terminals at the ports of Los Angeles and Long Beach, California.

ARTICLE V. AGREEMENT AUTHORITY

5.1 The parties are authorized (but not required) to reach agreement, in accordance with the procedures in Article 6.2, with respect to the following matters; and any two or more parties, including the terminal operator members of WCMTOA individually, are authorized to discuss and to collect and to exchange information with respect to such matters:

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(a) The development, acquisition, testing, deployment, and use of equipment, technology, or procedures related to the safe, secure and efficient transportation of cargo, the safe, secure, and efficient operation of marine terminals, and/or the identification of trucks operating at the terminals, including, but not limited to, RFID or cellular technology.

(b) Measures to acquire, test, deploy, operate and upgrade transportation worker identification credential ("TWIC") technology and other port and cargo security technology (including hardware, software, and databases), and to seek, obtain, administer, and expend grants from federal, state, and local governments and government agencies, quasi-governmental entities and other sources to help fund such technology-related activities.

(c) Measures to promote compliance with federal, state, or local statutes and regulations, including the Maritime Transportation Security Act of 2002, the Clean Air Act, Coast Guard rules and regulations, regulations of the California Air Resources Board, and other current or future regulations.

(d) The development, implementation, and/or administration of one or more databases, including the data therein, with information determined to be relevant to the CAAP, terminal efficiency programs or other Port programs including those regarding trucks serving the Ports, including but not limited to size, weight, age and model year, registration, ownership, operation, information concerning drivers, compliance or non-compliance with environmental or other requirements adopted by the Ports and/or other governmental or quasi-governmental agencies, and the interface of such database(s) with the various technologies described in Articles 5.1(a) and 5.1(b) above.

(e) Development, implementation, administration, operation, and enforcement of any and all aspects of programs or measures to minimize the environmental impact of port operations; to meet or implement mandatory or voluntary port or other legal or regulatory requirements with respect to air quality; or to promote the purchase or use of newer and/or more environmentally sound trucks in or near the Ports. The foregoing shall include but not be limited to the development, establishment, implementation and administration of a database of information relating to trucks and/or their owners or operators that operate in or near the Ports, including the contents of such database; installation and maintenance of RFID tags and readers; requirements for performance, program funding, compensation for services, administrator liability or protection from liability and costs; the criteria and procedures to be followed for verifying that trucks comply with the environmental or other requirements adopted by the Ports for admission to Port facilities; designation of trucks as compliant with Port requirements, and reflecting

the compliance status of trucks in any database(s) that may be established; criteria and procedures to be used to determine the right of admission or non-admission of trucks, cargo or equipment to any and all terminals at the Ports; retention or detention of cargo or equipment on the terminals as security for obligations or for other purposes; procedures to be used to update and/or correct any database of trucks or their owners or operators; procedures to be used to encourage compliance with and enforce applicable requirements.

(f) The assessment, collection, and expenditure of any fee adopted by the Ports with respect to clean air, clean trucks, security, port and terminal area infrastructure, congestion, storage, free time, demurrage, and/or detention, efficiency, and/or truck replacement, as such fee may be assessed or collected from parties designated by the Ports as responsible for payment of such fee, including cargo interests (including cargo owners, shippers, consignees, or intermediaries), truck owners or operators, ocean carriers, or other parties designated by the Ports as responsible for payment of such fee, and the remittance and use of the proceeds of any such fee. This shall include development of procedures, criteria, and systems in connection with assessment, payment, or collection, including but not limited to payment methods, credit arrangements, qualifications for credit or denial thereof, parties authorized to make payment, payment periods, remedies for nonpayment, collection procedures and standards, compensation for the costs of collection, and remittance of the proceeds to the Ports.

(g) Seeking or providing sources of funds (including loans or grants from federal, state and local governments and government agencies, quasi-governmental entities and other sources) to help fund clean air, security, port and terminal infrastructure, congestion relief, terminal efficiency, and/or truck replacement programs established by the Ports, and/or assisting others in obtaining such funding.

(h) Measures intended to reduce or prevent congestion on marine terminals and/or at the gates or in the vicinity of such terminals, to increase the efficiency and fluidity of such terminals and the Ports, and to improve the service they are able to provide to their respective customers including, but not limited to: rules, regulations, practices, fees and/or charges relating to or affecting the receipt, handling, storage, delivery and interchange of cargo, chassis and containers with shippers, ocean carriers, motor carriers and/or rail carriers (including requirements relating to the verified gross mass of cargo); movement of cargo and equipment around or near the ports by short haul rail service; security; access control; gate rules and hours of operations (including existing or proposed fees and programs relating to gate operations, and

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revisions to same); programs designed to encourage the distribution of cargo across numerous shifts; pick-up/drop off appointment systems (including appointment windows, common or shared booking systems, and incentives and penalties); turn times and other performance metrics; methods of cargo delivery/interchange such as "free flow" or "peel off" programs; truck idling; on-terminal equipment use and/or storage; free time, demurrage and/or detention; the use of technology to improve efficiency and/or implement any agreement reached with respect to any of the foregoing; and the terms/provisions of their respective marine terminal operator schedules relating to or implementing any of the foregoing.

5.2 It is understood that, by entering into this Agreement or agreements or decisions (if any) with the Ports pursuant to this Agreement, WCMTOA and its members do not necessarily endorse any particular content or requirements of the Ports' Clean Air Action Plan or any other program that has been or may be adopted by the Ports, but rather seek to facilitate the implementation of programs adopted by the Ports in a manner that is efficient and does not unnecessarily disrupt terminal

operations or the commerce served by the terminals. Except to the extent specifically agreed otherwise, including in any contract entered into pursuant to Article 5.3, WCMTOA and its members retain all of their legal rights and potential remedies with respect to the content of such Port programs.

5.3 In furtherance of any agreement or understanding reached hereunder, the parties are authorized to discuss, negotiate, and enter into one or more binding contracts, including but not limited to agency agreements or agreements to similar effect, pursuant to which WCMTOA, one or more of its terminal operator members, or one or more separate legal entities owned, established, or controlled by WCMTOA or its members, will provide the Ports with services to implement any or all aspects of any Ports program(s) with respect to the subjects set forth in Article 5.1. Such contract may address all aspects of the relationship, including but not limited to services to be provided, performance requirements for such services, compensation to be paid, allocation of liability and costs or indemnification, and contract term. Such contract(s) may address services and activities at or with respect to terminal facilities at the Ports other than the facilities of members of WCMTOA to the extent that the Ports determine that such other facilities are subject to Port programs.

5.4 The parties are authorized to meet, discuss, and exchange information with truck owners, operators, or drivers, cargo interests, governments, and other persons regarding any of the matters within the scope of this Agreement.

5.5 Nothing in this Agreement shall be construed to alter or supersede the rights and obligations of the parties or their members under any applicable collective

bargaining agreement, nor to limit the authority, rights or obligations of the parties under any other agreement to which one or more of them may be party.

ARTICLE VI. ADMINISTRATION AND DELEGATION OF AUTHORITY.

6.1 This Agreement shall be administered by the parties, their respective members and/or their duly authorized representatives. The activities authorized in this Agreement may be carried out through meetings, telephone communications, video conferences, electronic mail or other electronic communications, writings and/or such other means of communications as the parties may deem appropriate, and may be carried out by any duly authorized representatives of the parties, the individual members of WCMTOA, or the members or duly authorized representatives of any separate legal entity established by WCMTOA and its members for purposes of implementing any authority provided for under this Agreement. The parties may establish such standing, advisory, and ad hoc committees as they deem desirable for the furtherance of the purposes of this Agreement. The parties are authorized to retain consultants, subcontractors, or other third parties to carry out any responsibilities discussed, established or agreed upon under this Agreement.

6.2 Agreements reached hereunder, including amendments to this Agreement, shall require the consent of each of the Ports and of WCMTOA. In making agreements with the Ports under this Agreement, the WCMTOA members shall act through the WCMTOA structure, in accordance with the provisions in the WCMTOA Agreement concerning voting and concerning whether and the extent to which a

WCMTOA member is bound by an agreement, decision or action of the group, including an agreement, decision, or action made under this Agreement.

6.3 The Secretary of each party and legal counsel for each party is authorized to execute and file amendments to this Agreement of behalf of the relevant party.

ARTICLE VII. DURATION AND RESIGNATION.

7.1 This Agreement shall become effective when it enters into effect pursuant to the U.S. Shipping Act of 1984, as amended, and shall remain in effect indefinitely.

7.2 Any party may resign from this Agreement at any time by giving not less than thirty (30) days advance written notice of resignation to the other parties; provided, however, that such resignation shall not affect financial or other obligations previously incurred by the party under contracts or other agreements made under this Agreement.

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SIGNATURE PAGE

IN WITNESS WHEREOF the parties have agreed this ___ day of May, 2016, to
amend this Agreement as per the attached pages.

WEST COAST MTO AGREEMENT
For itself and on behalf of its individual
Members listed in the Appendix

By: _____

Name: _____

Title: _____

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

Dated: _____

By: _____
Eugene D. Seroka,
Executive Director

Attest: _____
Board Secretary

APPROVED AS TO FORM AND LEGALITY

_____, 2016

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

By _____
Heather M. McCloskey, Deputy

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SIGNATURE PAGE (continued)

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

Dated: _____

By: _____
Jon Slangerup,
Executive Director

Attest: _____
Board Secretary

APPROVED AS TO FORM

_____, 2016

CHARLES PARKIN, City Attorney

By _____
Charles M. Gale, Principal Deputy

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APPENDIX
MEMBERS OF WEST COAST MTO AGREEMENT

APM TERMINALS PACIFIC LTD.
2500 Navy Way
Terminal Island, CA

CALIFORNIA UNITED TERMINALS, INC.
1200 Pier E Street
Long Beach, CA 90822

EAGLE MARINE SERVICES, LTD.
16220 N. Scottsdale Road, Suite 300
Scottsdale, AZ 85254-1781

EVERPORT TERMINAL SERVICES, INC.
655 Deep Valley Drive
Rolling Hills Estates, CA 90274

INTERNATIONAL TRANSPORTATION SERVICE, INC.
1281 Pier G Way
Long Beach, CA 90802-6353

LONG BEACH CONTAINER TERMINAL, INC.
1171 Pier F Avenue
Long Beach, CA 90802

TOTAL TERMINALS LLC
1999 Harrison St., Suite 550
Oakland, CA 94612-3520

WEST BASIN CONTAINER TERMINAL LLC
111 West Ocean Blvd, Suite 1610
Long Beach, CA 90802

PACIFIC MARITIME SERVICES, L.L.C.
1131 SW Klickitat Way
Seattle, WA 98134

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APPENDIX
MEMBERS OF WEST COAST MTO AGREEMENT
(continued)

SSA TERMINAL (LONG BEACH), LLC
1131 SW Klickitat Way
Seattle, WA 98134

TRAPAC INC.
920 West Harry Bridges Boulevard
Wilmington, CA 90744-5230

YUSEN TERMINALS, INC.
701 New Dock Street
Terminal Island, CA 90731

SSA TERMINALS, LLC
1131 SW Klickitat Way
Seattle, WA 98134

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