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PORT OF SEATTLE/PORT OF TACOMA  
DISCUSSION AGREEMENT

FMC AGREEMENT NO. 201222

A Marine Terminal Agreement as defined in 46 C.F.R. 53.5.308

Original Effective Date:

Expiration Date: None



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## **ARTICLE I: FULL NAME OF THE AGREEMENT**

This Agreement is known as the Port of Seattle/Port of Tacoma Discussion Agreement (“Agreement”).

## **ARTICLE II: BASIS FOR AGREEMENT**

- A. The Ports of Tacoma and Seattle (“Ports”) are separate port districts governed by locally elected port commissioners. They are 30 miles apart on Puget Sound. There are over 75 different ports in Washington. Washington state law provides for local control of port facilities, and also allows each port to exercise any of its powers jointly with any other port by mutual agreement.
- B. Seattle and Tacoma are the two largest ports in the state, with extensive investments in their marine facilities, and together are the third largest trade gateway in the United States. Each serves container cargo and estimates that a significant segment of its container cargo is bound for destinations outside Puget Sound, principally the Midwest. This discretionary cargo is critical for the financial stability of the ports and the private marine terminal operators who run them.
- C. The leaders of both Ports believe that recent developments in the shipping industry threaten the future of the United States (U.S.) Pacific Northwest trade. These developments include:
  1. Increased competition from expanding ports across North America, which prompts the U.S. Pacific Northwest gateway ports to explore opportunities for a creative collaboration.
  2. Shipping lines losses in the Pacific trade over the past three years, leading to consolidation by the lines into alliances that could lead to fewer port calls, unless ports can craft cooperative responses, where appropriate, to meet shipping line needs.
  3. Shipping lines are deploying larger container ships. While the size of these ships could lead to fewer port calls, it also signals an opportunity for ports that have the capability to handle these vessels through deeper drafts, stronger aprons and berths, and adequate cranes.

- D. It is imperative in this environment that Seattle and Tacoma have the ability to discuss how they can both succeed and flourish in the changing environment. The discussion agreement is designed to provide the flexibility they need to explore the options available to maintain a viable competitive position and grow their mutual container market share. The Agreement thus allows the parties to meet, discuss, collect and share information on matters concerning the operation of their container terminal facilities. Such discussions can include topics including but not limited to general container related financial information, including planning, development and utilization of facilities, and rates of return (including all terminal rates, charges, and rules and regulations, whether imposed by tariff, marine terminal operator schedule, lease or other contract, or in any other manner).
- E. In consideration of local economic conditions of each Port which cause rates and charges to reflect the community's cost structure, and the unique aspects and strengths of each port, the right of each port to independent action will not be altered or impeded by this Agreement, with the exception of any binding agreements reached under this Agreement,.

### **ARTICLE III: PURPOSE OF THE AGREEMENT**

As a result of these developments in the shipping industry, the Ports desire to gain mutual understanding of the facts and analysis of what actions and strategies would be beneficial to maintain the U. S. Pacific Northwest as a fully competitive gateway for U.S. trade.

The purpose of this Agreement is to authorize its signatories to meet, discuss, collect and share information on all matters concerning the operation of their container terminal facilities, including but not limited to rates of return; planning, development and utilization of port and port-related facilities; including all terminal rates, charges, and rules and regulations, whether imposed by tariff, marine terminal operator schedule, lease or other contract, or in any other manner, and explore options in the provision of container terminal services.

This Agreement will enable the ports of Seattle and Tacoma to have the discussions necessary to understand how Ports can become more cost effective and operationally efficient

without adversely affecting inter port competition, all of which will permit the Ports to continue creating economic growth in and provide other public benefits to their communities.

## **ARTICLE IV: PARTIES TO THE AGREEMENT**

The parties to the Agreement (“Parties”) are

- (a) Port of Seattle  
2711 Alaskan Way  
Seattle, WA 98121
- (b) Port of Tacoma  
One Sitcum Plaza  
Tacoma, WA 98421

Both Parties are municipal corporations of the state of Washington, each of which act by and through their respective Commissions.

The signatories to this Agreement may from time to time invite outside parties to attend Agreement meetings to consult with or otherwise provide input, information, or expertise on subjects within the Agreement’s purposes. Such parties will not participate in the deliberations or any decision-making processes that may be allowed under this Agreement.

## **ARTICLE V: GEOGRAPHIC SCOPE OF THE AGREEMENT**

This Agreement covers the geographic areas served by the Ports of Seattle and Tacoma.

## **ARTICLE VI: AGREEMENT AUTHORITY**

1. The Parties to this Agreement are authorized to discuss, collect and share information on the following:
  - a. Container Facility planning and development.
  - b. Management and operational efficiencies and operational costs at port container facilities.
  - c. Federal, state, and local cooperation in enhancing existing or developing regional, port-related transportation infrastructure.
  - d. Seeking legislation, regulations, and funding from local, state, and federal governments as to any matter within the scope of this Agreement.
  - e. Container business rates of return for port-owned terminals, including all terminal rates, charges, and rules and regulations, whether imposed by tariff, marine terminal operator schedule, lease or other contract, or in any other manner.
  - f. Utilization of port facilities.
  - g. Expenditures of funds for the purposes described in this Agreement.

2. The Parties to this Agreement are authorized to discuss, collect, share information and agree on the following:
  - a. Hiring of a consultant to provide input, information, or expertise on subjects within the Agreement's purposes.
3. Nothing herein is intended to permit the parties to take any collective action pursuant to this Agreement. The parties understand that any agreements they may desire to implement, if subject to the jurisdiction of the Federal Maritime Commission, shall be filed with the Commission and become effective in accordance with the provisions of the Shipping Act of 1984 prior to such implementation.

## **ARTICLE VII: ADMINISTRATION AND DELEGATION OF AUTHORITY**

A. Administration. The signatories will administer this Agreement through their duly authorized representatives. The signatories may carry out the activities authorized in this Agreement through meetings, telephone communications, video conferences, electronic mail or other communications means as the signatories choose.

B. Committees. The signatories may establish committees and subcommittees as they deem desirable to carry out the purposes of this Agreement. All such sub-groups under this Agreement will maintain minutes of their meetings and make those available to the Secretary under this Agreement.

C. Outside Resources. The signatories may hire and retain consultants, subcontractors, or other third parties to carry out the purposes of this Agreement, subject to the signatories' respective agreement regarding costs in connection with such hiring.

D. Secretary. The signatories will select one or more secretaries to be responsible for all administrative tasks under this Agreement. The Secretary will take minutes of all meetings and a record of all discussions and actions taken. The Secretary will file minutes of all meetings conducted under the Agreement and any materials provided to the signatories, committees, or subcommittees with the Commission and provide copies to each signatory.

E. Action, if any, made under this Agreement require mutual approval of the signatories, and will

not be binding unless approved by each Port's Commission.

## ARTICLE VIII: DURATION, MODIFICATION, AND TERMINATION

A. Duration. This Agreement will become effective as of its effective date under the U.S. Shipping Act of 1984, as amended, including under 46 U.S.C. § 40304. This Agreement will have an indefinite term, and will continue in full force until terminated by action of the signatories or the Commission. A signatory may withdraw from the Agreement by written notice delivered to the other signatory not less than 60 days prior to the termination.

B. Modification. The signatories may amend this Agreement if both signatories agree in writing. The Secretary will file the amendments with the FMC and the amendments will be effective as specified under applicable federal law and regulation.

C. 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 signatories have not signed the same counterpart.

IN WITNESS WHEREOF, the signatories have executed this Agreement on the dates below.

### PORT OF SEATTLE

By Tout Bellitt for Tay Yodanis  
Its Deputy CEO  
Date: Jan. 16, 2014

### PORT OF TACOMA

By [Signature]  
Its CEO  
Date: JAN. 16<sup>th</sup>, 2014