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FEDERAL MARITIME COMMISSION



PORT OF OAKLAND/ OAKLAND MARINE TERMINAL OPERATOR
AGREEMENT

FMC AGREEMENT NO. 201203

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 Port of Oakland / Oakland Marine Terminal Operator Agreement (hereinafter "Agreement").

ARTICLE II. PURPOSE OF THE AGREEMENT

Whereas the Port has sought the assistance of its resident terminal operators with respect to the administration and operation of programs relating to port security and infrastructure, such as the testing and implementation of the Transportation Workers Identification Credential ("TWIC"); whereas the Port desires to obtain the input of its resident terminal operators regarding mechanisms for identifying, monitoring and reporting on trucks at and around the Port; whereas the Port of Oakland has been awarded a grant of \$3,800,000 to increase domain awareness by implementing a truck monitoring and reporting system; whereas the Board of Port Commissioners of the Port of Oakland has authorized acceptance of this grant subject to project feasibility; and whereas the terminal operators have an interest in ensuring that programs adopted by the Port 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 truck identification, the CTMP and monitoring and reporting systems related to such programs and also to the CARB requirements in a manner that will benefit the Port of Oakland community.

ARTICLE III. PARTIES TO THE AGREEMENT

The parties to the Agreement (hereinafter referred to individually as a “party” and jointly as the “parties”) are listed in Appendix A. The Port of Oakland is hereinafter referred to as “Port” and all other parties to this agreement are referred to as “Terminal” or “Terminals.”

ARTICLE IV. GEOGRAPHIC SCOPE OF THE AGREEMENT

The geographic scope of this Agreement is the area in and around marine terminals at the Port of Oakland, 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 are authorized to collect and exchange information regarding, and otherwise discuss and reach common positions among themselves with respect to the following matters:

(1) The development, acquisition, installation, testing, deployment, and/or use by the Port of technology, equipment, systems and procedures related to the safe, secure and efficient transportation of cargo to and from the Port, the safe, secure, and efficient operation of marine terminals, and/or the identification of trucks operating at the terminals, including, but not limited to, a database registry of truckers serving the Port; technology such as RFID and/or GPS technology to identify and/or locate trucks transporting containers and/or other cargo to and from the Port or within the Port; and equipment, as well as related software and support services for identification and monitoring.

(2) The development, implementation and/or administration of one or more databases, including the data therein, with information determined to be relevant to Port programs regarding trucks serving the Port, including but not limited to size, weight, age and model year, registration, ownership, operation, information concerning drivers, and the interface of such database(s) with the various technologies described in Articles 5.1(1) hereof.

(3) 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).

(4) The development, implementation and/or administration of measures mandated or established by the Port, the California Air Resources Board, federal, state or local governments, or other governmental authorities or agencies in connection with the reduction of air pollution attributable to activities in and around marine terminals and compliance with federal, state, local and Port standards for air quality, emissions levels, measures designed to achieve such standards, and reporting requirements with respect to such measures. Such measures shall include, without limitation: the establishment of programs to minimize the environmental impact of Port operations and measures to implement and enforce such programs; measures to meet or implement mandatory or voluntary port or other legal or regulatory requirements with respect to air quality, including any clean air action plan or program adopted or promulgated by the Port; measures to promote or require the purchase or use of newer and/or more environmentally sound trucks in or near the marine terminals at the Port, including truck or engine replacement programs; environmental or emissions standards and criteria for cargo interests, inland carriers, or others seeking access to port or marine terminal facilities; standards, criteria and procedures for access or denial of access to marine terminal facilities by cargo containers, trucks, inland carriers or other users of the terminals; and the recovery of the costs and distribution of funds.

(5) The application for, receipt, or use of funds (including loans or grants from federal, state and local governments and government agencies, quasi-governmental entities and other sources) to help fund the programs described in this Agreement.

(6) The development of technical specifications for technology and systems, requests for proposals to provide such technology or systems, evaluation of responses or bids thereto, and award of contracts, with respect to the programs described in this Agreement.

(7) The development of procedures to implement the matters described above.

5.2 It is understood that, by entering into this Agreement or agreements (if any) with the Port pursuant to this Agreement, the Terminals do not necessarily endorse any particular content or requirements of any program that have been or may be adopted by the Port. Except to the extent specifically agreed otherwise, including in any contract entered into pursuant to

Article 5.3, the Terminals retain all 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 without further amendment to this Agreement or other agreement filing under the 1984 Shipping Act as amended, enter into one or more binding contracts, including but not limited to agency agreements or agreements to similar effect, pursuant to which any or all of the Terminals, or any separate legal entities owned, established, or controlled by any or all of the Terminals or their affiliates, will provide the Port with services to implement any or all aspects of any Port program(s) with respect to 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 Port other than the facilities of the Terminals to the extent that the Port determine that such other facilities are subject to Port programs.

5.4 The parties are authorized to meet, discuss, and exchange information with federal, state and local governments, law enforcement and other agencies, truck owners, operators, or drivers, cargo interests, ocean carriers, intermediaries, 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 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, or the members or duly authorized representatives of any separate legal entity established by the Terminals 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 (a) the Port and (b) a majority of all Terminal parties to this Agreement.

6.3 The Secretary of each party and legal counsel for each party is authorized to execute and file amendments this Agreement on 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 that have already been incurred or agreed to by the party under any contract(s) or other agreement(s) made under this Agreement.

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FEDERAL MARITIME COMMISSION

Port of Oakland / Oakland Marine Terminal
Operator Agreement
FMC Agreement No. 201203-001

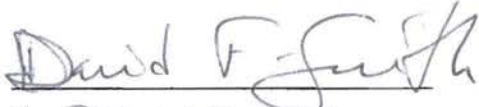
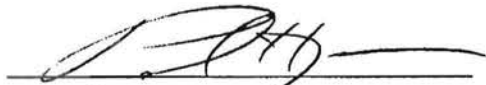
SIGNATURE PAGE

IN WITNESS WHEREOF the parties have caused this Amendment No. 001 to be

executed by their duly authorized representative as this 30th day of July, 2009.

PORT OF OAKLAND

PORTS AMERICA OUTER HARBOR
TERMINAL, LLC

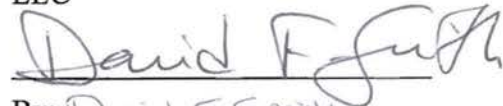
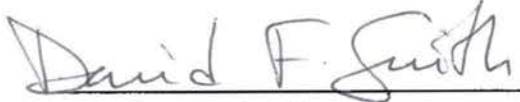


By: Paul Heylman
Title: Attorney
Date: July 29, 2009

By: David F. Smith
Title: Attorney
Date: 7-30-09

EAGLE MARINE SERVICES, LTD.

SEASIDE TRANSPORTATION SERVICE
LLC



By: David F. Smith
Title: Attorney
Date: 7-30-09

By: David F. Smith
Title: Attorney
Date: 7-30-09

SSA TERMINALS (OAKLAND), LLC

TOTAL TERMINALS INTERNATIONAL,
LLC

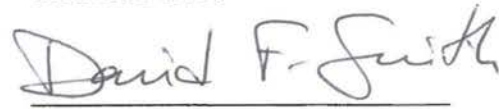
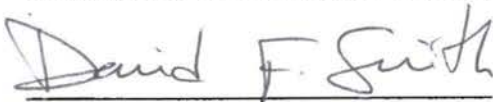


By: David F. Smith
Title: Attorney
Date: 7-30-09

By: David F. Smith
Title: Attorney
Date: 7-30-09

TRANSBAY CONTAINER TERMINAL, INC.

TRAPAC INC.



By: David F. Smith
Title: Attorney
Date: 7-30-09

By: David F. Smith
Title: Attorney
Date: 7-30-09

Appendix A – Parties to the Agreement

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PORT OF OAKLAND
530 Water Street
Oakland, CA 94607

EAGLE MARINE SERVICES, LTD.
1111 Broadway
Oakland, CA 94607

PORTS AMERICA OUTER HARBOR TERMINAL, LLC
2200 Powell Street, Suite 1200
Emeryville, CA 94608

SEASIDE TRANSPORTATION SERVICE LLC
1999 Harrison St., Suite 550
Oakland, CA 94612-3520

SSA TERMINALS (OAKLAND), LLC
1131 SW Klickitat Way
Seattle, WA 98134

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

TRANSBAY CONTAINER TERMINAL, INC.
2500 7th Street
Oakland, CA 94607-1008

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

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