

**AGENDA OF THE SPECIAL MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
THURSDAY, NOVEMBER 6, 2008, AT 8:30 A.M.
PORT OF LOS ANGELES ADMINISTRATION BUILDING
425 S. PALOS VERDES STREET
SAN PEDRO, CA 90731**

**BOARD OF HARBOR COMMISSIONERS
President S. David Freeman
Vice President Jerilyn López Mendoza
Commissioner Kaylynn L. Kim
Commissioner Douglas P. Krause
Commissioner Joseph R. Radisich**

**A. OPENING STATEMENT – AN OPPORTUNITY FOR MEMBERS
OF THE PUBLIC TO ADDRESS THIS BOARD**

**PERSONS IN THE AUDIENCE MAY ADDRESS THIS BOARD
IN CONNECTION WITH ANY AGENDA ITEM OR DURING
THE PUBLIC COMMENT PERIOD.**

**AS PROVIDED BY THE BROWN ACT, THE BOARD HAS
LIMITED EACH INDIVIDUAL'S SPEAKING TIME TO THREE
MINUTES. ANYONE DESIRING TO SPEAK DURING THE
PUBLIC COMMENT PERIOD IS REQUESTED TO COMPLETE
A SPEAKER CARD AND SUBMIT IT TO THE COMMISSION
SECRETARY, VIA THE SERGEANT AT ARMS, PRIOR TO THE
START OF THE MEETING.**

Commission actions, except actions which are subject to appeal or review by the Council pursuant to other provisions of the Charter, ordinance or other applicable law, are not final until the expiration of the next five meeting days of the City Council during which the Council has convened in regular session. If the Council asserts jurisdiction during this five meeting day period the Council has 21 calendar days thereafter in which to act on the matter.

Please note that this agenda is subject to revision in accordance with the Brown Act. In the event the agenda is revised prior to the meeting, Port staff will endeavor to post the revised agenda on the Port's web site (<http://www.portoflosangeles.org>). Updated agendas also will be available in hard copy at the meeting. Live Board meetings can also be heard at: (213) 621-City (Metro), (818) 904-9450 (Valley), (310) 471-City (Westside) and (310) 547-City (Harbor).

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities.

Sign language interpreters, assistive listening devices, and translation services may be provided. To ensure availability, 72-hour advance notice is required. Contact the Commission office at (310) 732-3444.

Interpretes de señas, sistemas auditivos y servicios de traducciones están disponibles. Para asegurar disponibilidad, se requiere solicitarlos con 72 horas de anticipación. Para hacer la solicitud, llame a la oficina de la Comisión al (310) 732-3444.

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B. COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

C. REPORT OF THE EXECUTIVE DIRECTOR

D. REPORTS OF COMMISSIONERS

E. BOARD COMMITTEE REPORTS

F. PRESENTATIONS

Eastview Little League, Inc., Progress Update

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G. REPORTS OF THE EXECUTIVE DIRECTOR

Consent Items (1-5)

Planning and Research Division

1. Re: RESOLUTION NO. _____ – DRAFT PORT MASTER PLAN AMENDMENT NO. 24 – MAIN CHANNEL DEEPENING PROJECT

SUMMARY: As required by the California Coastal Act, the Los Angeles Harbor Department (Harbor Department) is proposing to distribute Draft Port Master Plan Amendment No. 24 (Draft Amendment No. 24), publish the Notice of Completion of the subject draft amendment and schedule a public hearing on the draft amendment. Draft Amendment No. 24 would allow for the completion of the Main Channel Deepening Project (MCDP) and the ability to dispose of approximately three million cubic yards (cy) of material at various disposal sites if that project goes forward, subject to the California Environmental Quality Act (CEQA). This Board of Harbor Commissioners (Board) action is limited to initiating the public notice and review process for Draft Amendment No. 24. The Board's consideration of the MCDP and the Final Amendment No. 24 would occur at a later date following completion of the MCDP Final Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR).

Recommendation: Board resolve that (1) the distribution of Draft Amendment No. 24 – MCDP to interested persons, organizations and agencies, including the California Coastal Commission be approved; (2) the publication of the Notice of Completion of the subject amendment be authorized; (3) a public hearing on the draft amendment be authorized at the Board's regularly scheduled meeting on January 8, 2009, at 6:00 p.m. at the Harbor Department Administration Building, 425 S. Palos Verdes Street, San Pedro; and (4) Resolution No. _____ be adopted.

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2. Re: RESOLUTION NO. _____ FOR THE APPROVAL
OF CHANGES TO THE MEMBERSHIP OF THE PORT OF
LOS ANGELES COMMUNITY ADVISORY COMMITTEE

SUMMARY: As required by the Port of Los Angeles Community Advisory Committee (PCAC) By-laws, the Board of Harbor Commissioners (Board) is being asked to approve changes in the PCAC membership for the Harbor City/Harbor Gateway Chamber of Commerce.

Recommendation: Board resolve that (1) it approve Joeann Valle as the Harbor City/Harbor Gateway Chamber of Commerce voting member, and Mark Waronek as the alternate member; and (2) Resolution No. _____ be adopted.

Environmental Management Division

3. Re: RESOLUTION NO. _____ - FIRST AMENDMENT
TO AGREEMENT 2526 WITH JONES & STOKES
ASSOCIATES, INC., FOR COMPLETION OF
ENVIRONMENTAL IMPACT REPORTS/
ENVIRONMENTAL IMPACT STATEMENTS FOR THE
SAN PEDRO AND WILMINGTON WATERFRONT
PROJECTS

SUMMARY: Staff recommends approval of the First Amendment to Agreement 2526 with Jones & Stokes Associates, Inc., which will increase the contract amount from \$4,000,000 to \$5,400,000. Jones & Stokes Associates, Inc., is preparing the Environmental Impact Reports/Environmental Impact Statements (EIR/EIS) for the San Pedro Waterfront Project and the Wilmington Waterfront Project. The additional funds are needed to complete these EIRs. There is no change in the contract term, which is due to expire on February 28, 2010.

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3. (Continued)

Recommendation: Resolve that (1) the Board find that in accordance with the City Charter Section 1022, work under the subject Agreement can be performed more feasibly by independent consultants rather than by City employees; (2) the First Amendment to Agreement 2526 with Jones & Stokes Associates, Inc., to increase the contract amount by \$1,400,000 for a total contract amount not-to-exceed \$5,400,000, and to add an SBE Goal of 15% for the amendment be approved; (3) the Executive Director and the Board Secretary be authorized to execute and attest to said amendment for and on behalf of the Board; and (4) Resolution No. _____ be adopted.

Marketing Division

**4. Re: RESOLUTION NO. _____ APPROVAL OF
FOREIGN-TRADE ZONE GENERAL PURPOSE
OPERATING AGREEMENT BETWEEN THE CITY OF
LOS ANGELES AND EAGLE GLOBAL LOGISTICS, FTZ
202 SITE 9C**

SUMMARY: The Los Angeles Harbor Department (Harbor Department), as the Foreign-Trade Zone (FTZ) grantee, establishes Operating Agreements with FTZ operators to enable the Harbor Department to oversee their FTZ operations. The Harbor Department received a request from Eagle Global Logistics (Eagle) to activate their site within FTZ 202 Site 9C, located at 1960 Western Avenue, Torrance, CA. This site includes approximately 305,400 square feet of warehouse and office space on 7.1 acres. Eagle will be operating their warehouses under FTZ operation rules and the Operating Agreement will provide a term of five years with three five-year renewal options.

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4. (Continued)

Recommendation: Board resolve that (1) the subject FTZ General Purpose Operating Agreement between the City of Los Angeles and Eagle be approved; (2) the Board Secretary be authorized and directed to transmit the proposed FTZ General Purpose Operating Agreement to the City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles; (3) Upon approval by City Council, the Executive Director and the Board Secretary be authorized to execute and to attest to the proposed FTZ General Purpose Operating Agreement; and (4) Resolution No. _____ be adopted.

5. Re: RESOLUTION NO. _____ APPROVAL OF FOREIGN-TRADE ZONE DEVELOPER AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND COGNAC PACIFIC GATEWAY LLC, FTZ 202 SITE 7

SUMMARY: The Los Angeles Harbor Department (Harbor Department), as the Foreign-Trade Zone (FTZ) grantee, establishes Developer Agreements with FTZ Developers in order to oversee their FTZ Developments. The Harbor Department currently has Developer Agreement No. 2309 in place with Prentiss Properties for FTZ 202 Site 7, located in Torrance, CA. In 2006, Cognac Pacific Gateway, LLC (Cognac) purchased property (including 93 acres in FTZ 202 Site 7) from Prentiss Properties. In April 2007, the Harbor Department was required by the FTZ Board to have a Developer Agreement with a new land owner. The proposed FTZ Developer Agreement is for a five-year term with three five-year renewal options.

Recommendation: Board resolve that (1) the subject FTZ Developer Agreement between the City of Los Angeles and Cognac be approved; (2) the Board Secretary be authorized and directed to transmit the proposed FTZ Developer Agreement to the City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles; (3) Upon approval by City Council, the Executive Director and the Board Secretary be authorized to execute and to attest to the proposed FTZ Developer Agreement; and (4) Resolution No. _____ be adopted.

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Regular Items (6-8)

Engineering/Contracts & Purchasing

6. Re: RESOLUTION NO. _____ - AWARD CONTRACT NO. 39438 – MOBILE ELECTRICALLY POWERED HYDRAULIC ELEVATING GANGWAYS, BID F-595, TO FMT AIRCRAFT GATE SUPPORT SYSTEMS AB

SUMMARY: Award of Contract to FMT Aircraft Gate Support Systems AB, Dalaslingan 8, S-231 32 Trelleborg, Sweden, for furnishing, transportation, labor, materials, and equipment to design, manufacture, deliver, install, test and commission four Mobile Electrically Powered Hydraulic Elevating Gangways.

Recommendation: Resolve that (1) the Board find that in accordance with City Charter Section 1022, work under the subject Contract is temporary and specialized in nature and can be performed more feasibly by an independent contractor rather than City employees; (2) Contract No. 39438 be awarded to FMT Aircraft Gate Support Systems AB, in a total amount (excluding sales tax) of \$8,338,600; (3) the Executive Director and the Board Secretary be authorized to execute and to attest to the Contract for and on behalf of the Board; and (4) Resolution No. _____ be adopted.

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Clean Truck Program

7. Re: RESOLUTION NO. _____ - CLEAN AIR ACTION PLAN – CLEAN TRUCK PROGRAM – REVISED CONCESSION AGREEMENT INCENTIVE ADDENDUM REGARDING THE 2007 COMPLIANT TRUCK INCENTIVE PROGRAM

SUMMARY: On August 21, 2008, the Port of Los Angeles Board of Harbor Commissioners (Board) approved incentives to encourage licensed motor carriers (LMC's) to cost effectively accelerate the emission reductions identified in the Clean Truck Program (CTP) and bring United States Environmental Protection Agency (USEPA) 2007 compliant trucks more quickly into the Port drayage market. Response to the incentive program was overwhelming, with more than 100 LMC's offering to bring more than 7,000 USEPA 2007 emissions compliant trucks into the drayage marketplace by the end of 2009, significantly earlier than the ban schedule would otherwise require. LMC response to the program indicates intent to bring over 2,000 trucks into the marketplace by the end of calendar year 2008.

Staff has now developed an agreement for LMC's participating in the incentive program. The agreement is designed to be an Addendum to the Concession Agreement for incentive program LMC's. It will establish terms and conditions for performance in exchange for payment of identified incentive monies from the Clean Truck Fund. This Addendum was initially brought to the Board on October 23, 2008. Changes were requested to Section 2.6 of the Addendum, which outlines repayment requirements for vehicles that do not meet the enrollment requirements. This Board report includes revisions to Section 2.6 and editorial changes to other areas. As initially requested, this Board report recommends: (1) granting incentives to a maximum of 2,200 trucks in 2008; (2) approval of the form of the revised Incentive Addendum (see Transmittal 1); and (3) authority for the Executive Director to execute such addenda in substantially the form set forth in Transmittal 1.

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7. (Continued)

The request for incentives in this report only applies to the incentives to be granted in 2008. Continuation of the program will depend on a number of factors including CTP tariff revenues, incentive program compliance, program direction, (external influences, focus on types of trucks), and alternative funding availability. Staff recognizes that an incentive plan must be provided to the Board for approval in 2009, taking each of these factors into consideration with particular emphasis on encouraging the use of Alternative Fuel Vehicles.

Recommendation: Board resolve that (1) the Concession Agreement Incentive Addendum set forth in Transmittal 1 be approved; (2) the Executive Director be authorized and empowered to execute Concession Agreement Incentive Addendum with individual incentive recipients, in the form set forth in Transmittal 1, and the Board Secretary be authorized to attest to same; (3) such incentives for 2,200 trucks in 2008 not-to-exceed \$50,000,000 be authorized; (4) a transfer of funds from the Unappropriated Balance to the CTP Budget for the shortfall amount not-to-exceed \$12,840,000 be approved; and (5) Resolution No. _____ be adopted.

City Attorney

8. Re: RESOLUTION NO. _____ WAIVING THE POTENTIAL CONFLICT WITH RESPECT TO KAYE SCHOLER, LLP REPRESENTATION OF INFINEON TECHNOLOGIES RE: DRAM ANTITRUST CLAIMS

SUMMARY: The proposed action involves the Board approval of a requested waiver of conflict of interest from the law firm of Kaye Scholer, LLP. The firm represents the City of Los Angeles in the American Trucking Associations v. City of Los Angeles, et al., Case No. 08-56503 (9th Cir. Ct. of Apps), Case No. CV 08-04920 (C.D. Cal.) and other issues related to the Clean Truck Program. Now it seeks to represent Infineon Technologies AG and its U.S. subsidiary in an antitrust case brought by the California Attorney General with the City being one of several named municipal

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8. (Continued)

plaintiffs. The case involves claims that the City was damaged by Infineon's violation of antitrust laws by conspiring to fix the price of dynamic random access memory ("DRAM") incorporated into products purchased by the City.

Recommendation: Board resolve that (1) any potential conflict that might arise by way of Kaye Scholer, LLP representation of Infineon Technologies AG and its U.S. subsidiary in the matter of *City of Los Angeles, et al. v. Infineon Technologies AG, et al.*, S.F.S.C. Case No. 08-480561 be formally waived; (2) the City Attorney's Office be authorized to execute a written conflict waiver; and (3) Resolution No. _____ approving the conflict waiver be adopted.

H. Deputy Executive Director's Report

Deputy Executive Director Michael Christensen

I. CLOSED SESSION

- 1. Discussion of pending litigation entitled: American Trucking Associations, Inc. v. City of Los Angeles, et al., United States District Court Case No. 08-04920-CAS, and United States Court of Appeals for the Ninth Circuit Case No. 08-56503, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.**
- 2. Discussion of pending litigation entitled: Federal Maritime Commission v. City of Los Angeles, et al., Order of Investigation and Hearing, Docket No. 08-05, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.**
- 3. Discussion of pending litigation entitled: Alicia Unger v. City of Los Angeles, et al., United States District Court Case No. 08-02139-SVW, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.**

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I. CLOSED SESSION

- 4. Discussion with legal counsel concerning significant exposure to litigation [three (3) potential cases], pursuant to subdivision (b)(1) of Section 54956.9 of the California Government Code.**