

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
THURSDAY, JUNE 17, 2010 AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 EAST WATER STREET
WILMINGTON, CA 90744**

**BOARD OF HARBOR COMMISSIONERS
President Cindy Miscikowski
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 ([://www.portoflosangeles.org](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. EXECUTIVE DIRECTOR REMARKS

D. REPORT OF THE COMMISSIONERS

E. BOARD COMMITTEE REPORTS

F. PRESENTATION

Paul Johansen, Retirement Resolution

G. BOARD REPORTS OF THE EXECUTIVE DIRECTOR

CONSENT ITEMS (1 - 4)

Executive Director

1. Re: RESOLUTION NO. _____ - APPROVAL OF AGREEMENT
NO. _____ - WITH ACEBO & ASSOCIATES, LLC FOR
STRATEGIC EXTERNAL RELATIONS SERVICES

SUMMARY: In 2009, the City of Los Angeles Harbor Department (Harbor Department) created a Deputy Executive Director position to head a new External Relations Bureau to oversee and enhance the effectiveness of the Harbor Department's Government Affairs and Communications groups. This position has been vacant for over six months. This vacancy, along with the absence of a state lobbyist, has the potential to compromise the external relations of the Harbor Department at an important time when it is emerging from the economic downturn and dealing with multiple funding, policy, messaging, and business development initiatives. The coordinating role that a Deputy Executive Director would provide, and the lack of adequate state lobbying representation must be addressed immediately for the Harbor Department

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1. (Continued)

to be able to effectively pursue its ambitious external relations agenda. The proposed consultant, Acebo & Associates, LLC, Long Beach, California, has unique credentials and experience to provide critical external relations services needed immediately and to supplement the Harbor Department's state and federal lobbying efforts.

Recommendation: Board resolve to (1) 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) find that in accordance with the City Charter Section 371(e)(10) and Administrative Code Section 10.15, competitive bidding work under the subject Agreement is not practicable or advantageous; (3) approve Agreement No. _____ with Acebo & Associates, LLC and authorize said expenditures; (4) authorize the Executive Director and the Board Secretary to execute and attest to the proposed Agreement; and (5) adopt Resolution No. _____.

Construction and Maintenance

2. Re: RESOLUTION NO. _____ - APPROVAL OF SECOND AMENDMENT TO PERSONAL SERVICES AGREEMENT NO. 2550 WITH L.A. CONSULTING, INC. TO PROVIDE POST-AUDIT IMPLEMENTATION CONSULTING SERVICES

SUMMARY: The Construction and Maintenance Division (C&M) requests approval of a second amendment to Agreement No. 2550 between the City of Los Angeles (Harbor Department) and L.A. Consulting, Inc. (LAC) of Manhattan Beach, CA to provide post-audit implementation consulting services related to the new Computerized Maintenance Management System (CMMS). This is a continuation of work already started, but additional time and funding is necessary to complete the work. The scope of work previously authorized has not changed. Full CMMS implementation will provide management with the data and reports necessary to best manage resources and ensure the highest level of customer service. The second amendment is for an additional not-to-exceed amount of \$160,000, and a two-year extension to the three-year agreement term. This includes an additional \$40,000 in the third (current) year, a total of \$60,000 for the fourth year, and a total of \$60,000 for the fifth year. Los Angeles City Charter Section 373 and Los Angeles Administrative Code Division 10, Chapter 1, Article 1, Section 10.5(b)(2) permit the Harbor Department to enter into a second amendment with LAC without City Council approval.

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2. (Continued)

Recommendation: It is recommended that the Board (1) find that in accordance with City Charter Section 1022, the services under the second amendment are temporary and of a professional, expert, and technical nature, which can be performed more feasibly by an independent contractor; (2) approve the second amendment to Agreement No. 2550 between the Harbor Department and L.A. Consulting, Inc. to add an additional amount of \$160,000 for a total aggregate not-to-exceed amount of \$710,000, including related and contingency expenses, to provide professional post-audit implementation consulting services, and increase the term from three years to five years; (3) authorize the Executive Director to execute the proposed second amendment to Agreement No. 2550 (see Transmittal No. 1); and (4) adopt Resolution No. _____ .

Governmental Affairs

3. Re: RESOLUTION NO. _____ - APPROVAL OF GRANT APPLICATION TO THE CALIFORNIA DEPARTMENT OF PARKS & RECREATION FOR A MARINE EDUCATION CENTER

SUMMARY: *The City of Los Angeles Harbor Department (Harbor Department) has determined as part of its long-term development plans that the Southern California Marine Institute (SCMI) must move from its current location in Fish Harbor to the San Pedro waterfront. This would accommodate future expanded tenant cargo operations at the current SCMI site, move SCMI closer to the public and educational institutions that are essential to its mission, and provide an anchor location for the San Pedro Waterfront. To enhance the facility and location at Berth 57, to which SCMI will likely be moved, the Harbor Department is proposing to apply for a grant of up to approximately \$4.2 million to renovate an existing warehouse facility focused on marine research. We are applying to the California Department of Parks & Recreation Proposition 84-funded Nature Education Facilities (NEF) Program which requires no match.*

Recommendation: It is recommended that the Board (1) authorize and direct the Executive Director to apply to the State of California Department of Parks and Recreation for funding from the "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006" (Proposition 84) to fund the building of a marine education center facility at Berth 57; (2) authorize and direct the Executive Director to negotiate and return to the Board for approval of any grant agreements with the California State Department of Parks & Recreation for any grants awarded; and (3) adopt Resolution No. _____ .

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Marketing

4. Re: TEMPORARY ORDER NO. _____ AMENDING ITEMS 520 AND 550-033 OF THE PORT OF LOS ANGELES TARIFF NO. 4, SECTION FIVE "TRANSFERRED MERCHANDISE - WHARFAGE"

PERMANENT ORDER NO. _____ AMENDING ITEMS 520 AND 550-033 OF THE PORT OF LOS ANGELES TARIFF NO. 4, SECTION FIVE "TRANSFERRED MERCHANDISE - WHARFAGE"

SUMMARY: On June 18, 2009, the Board of Harbor Commissioners (Board) approved an amendment to Port of Los Angeles (POLA) Tariff No. 4, Items 520 and 550-033 exempting the assessment of wharfage on Transferred Merchandise for one year, commencing July 1, 2009, and ending on June 30, 2010. Transferred merchandise is merchandise discharged off a vessel at one port and transported by rail from another port. The amendment to the POLA Tariff No. 4 was an interim solution, which provided Common Carriers (Carriers), operating vessels in an alliance with other Carriers an operational efficiency, resulting in additional cost savings to the Carriers.

During the data reporting period of July 1, 2009 through March 31, 2010, two of the POLA's Container Terminal Operators (Terminal Operators), Yusen Terminals Inc. and Eagle Marine Services reported a combined Transferred Merchandise container volume activity of 1,649 twenty foot equivalent units (TEU).

This proposed tariff amendment would extend the current Transferred Merchandise rule through June 30, 2011. This action would directly impact Yusen Terminals Inc. Permit No. 692, as wharfage is derived through the tariff in this permit.

Other POLA Terminal Operator permits override elements of Tariff No. 4, including tariff amendments. Permit amendments will be required for those POLA Terminal Operators requesting this benefit. Staff will seek approval of such amendments at subsequent Board meetings.

Recommendation: It is recommended that the Board (1) approve the Amendment to POLA Tariff No. 4, Items 520 and 550-033 subject to the California Association of Port Authorities (CAPA) review and approval, and authorize the Executive Director to work with CAPA to secure this approval or proceed to take independent action in accordance with CAPA procedure; (2) adopt Temporary Order No. _____ and Permanent Order No. _____ to amend Items 520 and 550-033 in the Port of Los Angeles Tariff No. 4, Section Five, "Transferred Merchandise Wharfage." (3) authorize the Board Secretary to certify to the adoption of the Temporary

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4. (Continued)

Order by the Board and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect prior to adoption by Ordinance for a period not-to-exceed 90 days pursuant to Charter Section 653(b); (4) direct the Board Secretary to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the amendments to the POLA Tariff No. 4 pursuant to City Charter 653(a); and (5) authorize the Board Secretary to execute the Temporary Order and Permanent Order and Ordinance amending POLA Tariff No. 4 as stated above, and upon its publication, transmit the Orders and Ordinance to the Chief Wharfinger for implementation and posting to the City of Los Angeles Harbor Department's (Harbor Department) website as regulated by the Federal Maritime Commission.

REGULAR ITEMS (5 - 7)

Clean Truck Program

5. Re: RESOLUTION NO. _____ - EARLY COMMITMENT AND EFFICIENCY INCENTIVE PROGRAM; AMENDMENT TO INCENTIVE ADDENDUM TO CONCESSION AGREEMENT

SUMMARY: The Board of Harbor Commissioners (Board) is requested to approve an Amendment to the Incentive Addendum to the Concession Agreement between the City of Los Angeles Harbor Department (Harbor Department) and Port of Los Angeles (Port) concessionaires participating in the Early Commitment and Efficiency Incentive Program (Incentive Program). The Amendment would modify the terms of the Incentive Program to revise minimum trip requirements, and allow Incentive Program participants to reorganize their fleets and meet certain other conditions if they still cannot meet minimum trip requirements. Staff recommends these modifications to address the economic changes that have occurred since commencement of the Incentive Program and in recognition of the environmental benefits the Port has received from having these clean trucks operating in the Port since the beginning of the Clean Truck Program.

Recommendation: It is recommended that the Board (1) approve the form of Amendment (Transmittal 1) in substantial form; (2) authorize the Executive Director to execute and the Board Secretary to attest to the Amendment; and (3) adopt Resolution No. _____.

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Executive Offices

6. Re: RESOLUTION NO. _____ - REQUEST FOR AUTHORIZATION TO NEGOTIATE A DEPARTMENT-WIDE PROJECT LABOR AGREEMENT

SUMMARY: *Staff recommends the development and negotiation of a department-wide Project Labor Agreement (PLA) for all applicable City of Los Angeles Harbor Department (Harbor Department) public works-type projects. The creation of a department-wide PLA would greatly increase efficiency by eliminating the need to negotiate and approve separate PLAs at the onset of each applicable project. A department-wide PLA would also assure the consistency of the required terms, expedite dispute resolution, promote employment opportunities for local residents, and provide apprenticeship training opportunities during the construction of projects.*

Recommendation: It is recommended that the Board (1) authorize the Executive Director to finalize negotiations related to a department-wide Harbor Department PLA; (2) authorize PLA criteria for negotiation purposes as directed by the Executive Director and as discussed herein to include: (i) term, (ii) local and disadvantaged worker participation, (iii) workforce referral and development, (iv) apprenticeship participation and, (v) other criteria as the Executive Director directs; (3) report to the Board at the conclusion of negotiations with a draft text of the Harbor Department PLA and a draft copy of a Harbor Department Construction Careers Policy; and (4) adopt Resolution No. _____.

Real Estate

7. Re: RESOLUTION NO. _____ - CABRILLO WAY MARINA SHORT-TERM OPERATING AGREEMENT WITH WESTREC MARINA MANAGEMENT, INC.

SUMMARY: *On July 1, 2010, construction of Phase I of the new Cabrillo Way Marina is scheduled to be completed and Phase II is set to begin. In order to proceed, the existing marina currently operated by Westrec Marina Management, Inc. (Westrec) under Revocable Permit (RP) No. 97-24 must be vacated and demolished. Vessels in the existing marina will be accommodated within the completed Phase I area.*

The City of Los Angeles Harbor Department (Harbor Department) has prepared a Request for Proposal (RFP) for long-term operation of the new Cabrillo Way Marina, located within the West Channel at 2800 Miner Street,

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7. (Continued)

San Pedro (attached as Transmittal 2.) The RFP is scheduled to be released in July of 2010. Until the long-term marina operator agreement is entered into, the Harbor Department proposes to enter into a sole source short-term agreement with Westrec to manage Phase I of the new Cabrillo Way Marina which includes managing the relocation of vessels from their existing marina.

The proposed Operating Agreement has a 9-month term, with a March 31, 2011 expiration date, and requires Westrec to pay for all personnel, materials, and expenses associated with operation and maintenance of the facility, in addition to providing Westrec compensation based upon 70 percent of the gross revenues of the facility.

Recommendation: Board resolve to (1) find that in accordance with the Los Angeles City Charter Section 1022, it is more feasible for an outside contractor to perform recreational marina management services than City employees; (2) find, consistent with City Charter Section 371(e)(10), that the competitive bidding process for the short-term operation of Cabrillo Way Marina Phase I and associated relocation of vessels from the Phase II construction area, is undesirable and impractical, and would not be in the Harbor Department's best interest in consideration of the temporary nature of the services required and the relationship of Westrec with the owners of the vessels that must be relocated to accommodate construction of Cabrillo Way Marina Phase II; (3) approve the Operating Agreement with Westrec Marina Management, Inc. in substantially the same form as the attached; (4) authorize the Executive Director to execute and the Board Secretary to attest to the Operating Agreement in substantially the same form as attached; and (5) adopt Resolution No. _____.

H. **CLOSED SESSION**

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
(Subdivision (b) of Government Code Section 54956.9)

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 regarding subject matter of mediation with Gambol Industries, Inc.

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H. **CLOSED SESSION** (Continued)

2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Subdivision (a) of Government Code Section 54956.9)

**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**

3. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Subdivision (a) of Government Code Section 54956.9)

**Tony Pool v. City of Los Angeles, Los Angeles Superior
Court Case No. BC420953**