

**AGENDA OF THE SPECIAL MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
THURSDAY, MARCH 22, 2007, AT 8:30 A.M.
BANNINGS LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

**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**

(ROLL CALL)

**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 MUST 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, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72-hours prior to the meeting you wish to attend. For additional information, please contact: Commission office, Harbor Department, tel./TDD (310) 732-3444.

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B. COMMENTS FROM THE PUBLIC

C. REPORT OF THE EXECUTIVE DIRECTOR

1. **Authority with Regards to Change Orders -
Michael Christensen, Deputy Executive Director-
Port Development**

D. REPORTS OF COMMISSIONERS

E. BOARD COMMITTEE REPORTS

1. **Re: AUDIT COMMITTEE REPORT ON THE PORT'S
SECOND QUARTER FINANCIAL STATUS, FY 2006/07**
***SUMMARY: The Audit Committee met and reviewed the
attached Port of Los Angeles, Financial Status Report for the 2nd
Quarter ending December 31, 2006 of Fiscal Year (FY) 2006/07
at its meeting on February 21, 2007.***
***For the first time in recent history, the Port has reviewed and
reported its financial status with recommendations to adjust its
current fiscal year budget and return unspent funds to the
Unappropriated Balance. The unspent funds are due largely to
projects and contracts not moving forward as scheduled or
anticipated.***
***The Committee supports staff recommendations to transfer \$29
million in unspent funds from the Port's Operating Budget, and
\$110.3 million from the Capital Budget to the Unappropriated
Balance (UB) for future funding needs, revised as follows:***

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E1. (Continued)

Operating Budget (see Schedule 1 for account details):

<u>Account No.</u>	<u>Account Category</u>	<u>Amount</u>
53s	Travel	\$ 59,000
54s	Outside Services	13,824,020
57s	City Services	100,000
59s	Other Operating—	
	Environmental Incentives	12,000,000
59s	Other Operating – Insurance	77,000
83s	Non-Operating Expense	<u>2,899,158</u>
	TOTAL*	\$28,959,178

****\$50,000 in Materials & Supplies funds were removed from original staff report after review of the most recent Available Funds Report, dated 02/15/07.***

Capital Budget (see Schedule 2 for account details):

<u>Account No.</u>	<u>Account Category</u>	<u>Amount</u>
Various	Land Acquisition	\$ 64,585,475
Various	Capital Improvement Program	<u>45,700,000</u>
	TOTAL	\$110,285,475

These adjustments represent changes in projected spending and will not increase the current cash balance today.

Recommendation: The Committee hereby recommends that the full Board of Harbor Commissioners take action to authorize the above recommended transfers to the Unappropriated Balance, as detailed in Schedules 1 & 2.

F. PRESENTATIONS

1. San Pedro Arts Presentation

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G. REPORTS OF THE EXECUTIVE DIRECTOR

Consent Items (1-5)

Construction Division

- 1. Re: CONTRACT COMPLETION – BERTH 226-236 -
TERMINAL MODIFICATIONS FOR THE EVERGREEN
TERMINAL – CONTRACT NO. 2235 WITH EXCEL
PAVING COMPANY, SPECIFICATION NO. 2677**

SUMMARY: On January 31, 2006, the Board of Harbor Commissioners awarded the Terminal Modifications for the Evergreen Terminal; Berth 226-236 contract to Excel Paving Company for \$3,195,550.00. The construction commenced on March 20, 2006, and was completed in 217 calendar days on October 20, 2006. Authority for Adjustment (AFA) Nos. 1 through 17 decreased the contract amount by \$453,473.50. The final revised contract amount is \$2,742,076.50, approximately 14.19% lower than the original contract amount. The Board is requested to accept the subject contract as complete. There are no outstanding claims or issues.

Recommendation: Board resolve that (1) Authority for Adjustment (AFA) Nos. 1 through 15, and 17, showing a net increase of \$7,288.00 to the contract amount be received and ordered filed; (2) AFA No. 16 for a decrease in the contract amount of \$460,761.50 be approved; and (3) the subject contract be formally accepted as complete.

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2. Re: **CONTRACT COMPLETION – REAR BERTH 93 – GATEWAY PLAZA & HARBOR BLVD. PARKWAY – CONTRACT NO. 2225 WITH SULLY-MILLER CONTRACTING COMPANY SPECIFICATION NO. 2639**

SUMMARY: On December 1, 2004, the Board of Harbor Commissioners awarded the Rear Berth 93 Gateway Plaza and Harbor Boulevard Parkway contract to Sully-Miller Contracting Company for \$17,415,600. The construction commenced on January 31, 2005, and was completed in 515 calendar days on October 28, 2006. Authority for Adjustment (AFA) Nos. 1 through 79 increased the contract amount by \$2,868,077.37. The final revised contract amount is \$20,283,677.37, approximately 16.47% higher than the original contract amount. The Board is requested to accept the subject contract as complete. There are no outstanding claims or issues remaining.

Recommendation: Board resolve that (1) Authority for Adjustment (AFA) Nos. 1 through 78 showing an increase of \$3,958,529.16 to the contract amount be received and ordered filed; (2) AFA No. 79 for a decrease in the contract amount of \$1,090,451.79 for a net contract increase of \$2,868,077.37 be approved; and (3) the subject contract be formally accepted as complete.

Port Police

3. Re: **AWARD OF CONTRACT NO. 39360 FOR THREE UHF FREQUENCY RADIO STATION LICENSES, BID #F-518, TO SPECTRUM ACQUISITIONS GROUP, LLC. (SAG)**

SUMMARY: Award of contract to Spectrum Acquisitions Group, LLC. (SAG) for the purchase of three UHF frequency radio station licenses for Port Police operations.

Recommendation: Board resolve that approval be granted for awarding of Contract No. 39360 for the purchase of three UHF frequency radio station licenses to Spectrum Acquisitions Group, LLC. (SAG), 6700 East Pacific Coast Highway, Suite 100, Long Beach, California 90803, for a total amount of \$1,500,000, and the Executive Director be authorized to execute the purchase on behalf of the Board.

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Public Relations & Legislative Affairs

**4. Re: APPROVAL OF AGREEMENT WITH INTERNATIONAL
LOBSTER FESTIVALS, INC.**

SUMMARY: Approval is requested for a three-year agreement with International Lobster Festivals, Inc., 1072 Via Cordova, San Pedro, CA 90732, to act as the promoter and organizer of the Annual Port of Los Angeles Lobster Festival, with responsibility for planning, staging and promoting the event. The agreement begins with the 2007 Festival scheduled for September 14-16, 2007, with a commitment of \$50,000 per year which gives the Port title sponsorship for the event.

Recommendation: Resolve that (1) the Board find that the work is of a specialized and temporary nature which can be performed more feasibly by an outside contractor; (2) the Board find that the proposed event sponsorship is consistent with the criteria of the Sponsorship/Hosting Policy adopted on November 2, 2006; and (3) the Executive Director and the Board Secretary be directed to execute and attest to the agreement with International Lobster Festivals, Inc. for a three-year contract at a not-to-exceed amount of \$150,000 for the term of the agreement.

**5. Re: APPROVAL OF ANNUAL SPONSORSHIP OF THE LOS
ANGELES AREA CHAMBER OF COMMERCE**

SUMMARY: Approval is requested for a Diamond Club sponsorship level, or a \$75,000 investment, in the 2007 activities of the Los Angeles Area Chamber of Commerce.

Recommendation: Resolve that the Board find that the proposed sponsorship is consistent with the criteria of the Sponsorship/Hosting Policy adopted on November 2, 2006, and the Executive Director be authorized to approve the \$75,000 investment for calendar year 2007.

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Regular Item (6-9)

Marketing

6. Re: **PROPOSED FOREIGN-TRADE ZONE (FTZ)
DEVELOPER AGREEMENT BETWEEN THE CITY OF
LOS ANGELES AND AMB PROPERTY, L.P., SITE 7**

SUMMARY: On August 26, 1996, the Foreign-Trade Zones (FTZ) Board granted Macsteel Service Center FTZ 202, Site No. 7 at 1000 West Francisco Street in Los Angeles, California. On December 22, 2004, MacSteel Service Center sold 17.5-acre parcel site, which includes 298,000 square feet of warehouses, to AMB Property L.P. AMB Property, L.P. has requested to maintain FTZ status for FTZ 202, Site 7 with the Port of Los Angeles (grantee). It is required that the grantee notify the FTZ Board of new developer ownership and have an agreement with the new developer to oversee their development. The proposed FTZ developer agreement is for a five (5) year term with three (3), five-year renewal options with AMB Property, L.P. for FTZ 202, Site 7.

Recommendation: Board resolve that (1) the subject Foreign-Trade Zone (FTZ) developer agreement with AMB Property, L.P., Site 7 be approved; (2) the Board Secretary be 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; and (3) the Executive Director or her designee and the Board Secretary be authorized to execute and attest to the proposed developer agreement upon approval by the City Council.

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**7. Re: PROPOSED FOREIGN-TRADE ZONE (FTZ)
DEVELOPER AGREEMENT BETWEEN THE CITY OF
LOS ANGELES AND AMB PROPERTY, L.P., SITE 21**

SUMMARY: On May 11, 2004, the Foreign-Trade Zones (FTZ) Board granted Robert Pattillo Property, L.P. FTZ 202, Site 21 (156.12 acre) at the Redlands Commerce Center. On September 24, 2004, Robert Pattillo Property, L.P. sold 60.3 acres (1651 California Street, Redlands, California) to AMB Property, L.P. AMB Property, L.P. has built a 1.3 million square foot warehouse, distribution center at this location. AMB Property L.P. has requested to maintain FTZ status for FTZ 202, Site with the Port of Los Angeles (grantee). It is required that the grantee notify the FTZ Board for new developer ownership and have an agreement with the new developer to oversee their development. The proposed FTZ developer agreement is for a five (5) year term with three (3), five-year renewal options with AMB Property, L.P. for FTZ 202, Site 21.

Recommendation: Board resolve that (1) the subject Foreign-Trade Zone (FTZ) developer agreement with AMB Property, L.P., Site 21 be approved; (2) the Board Secretary be 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; and (3) the Executive Director or her designee and the Board Secretary be authorized to execute and attest to the proposed developer agreement upon approval by the City Council.

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8. Re: **PROPOSED FOREIGN-TRADE ZONE (FTZ) DEVELOPER AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND PORT LA DISTRIBUTION CENTER, L.P. AND PORT DISTRIBUTION CENTER II, L.P., SITE 14**

SUMMARY: In May 2004, the Foreign-Trade Zones (FTZ) Board designated Port LA Distribution Center, L.P., and Port LA Distribution Center II, L.P. as FTZ 202, Site 14. The Port was requested by Port LA Distribution Center, L.P., and Port LA Distribution Center II, L.P. to enter into a FTZ developer agreement of this 88-acre site as an approved FTZ site. The purpose of this proposed agreement is to allow Port LA Distribution Center, L.P., and Port LA Distribution Center II, L.P. to develop FTZ Site 14 on privately owned property on Westmont Drive in San Pedro, California. The proposed FTZ developer agreement is for a five (5) year term with three (3), five-year renewal options with Port LA Distribution Center, L.P., and Port LA Distribution Center II, L.P.

Recommendation: Board resolve that (1) the subject Foreign-Trade Zone (FTZ) developer agreement with Port LA Distribution Center, L.P. and Port LA Distribution Center II, L.P., Site 14 be approved; (2) the Board Secretary be 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; and (3) the Executive Director or her designee and the Board Secretary be authorized to execute and attest to the proposed developer agreement upon approval by the City Council.

(Board report dated November 28, 2006 be withdrawn)

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City Attorney

9. Re: **FIRST AMENDMENT TO AGREEMENT NO. 2462 BETWEEN THE CITY AND HUNT, ORTMANN, PALFFY, NIEVES, LUBKA, DARLING & MAH, INC. (FORMERLY KNOWN AS HUNT, ORTMANN, BLASCO, PALFFY & ROSSELL, INC.) FOR LEGAL SERVICES IN THE CASE OF *WESTCON MICROTUNNELING, INC. V. CITY OF LOS ANGELES*, UNITED STATES DISTRICT COURT CASE NO. CV05-7305 GPS (AJWx)**

Recommendation: Board resolve that (1) the City Attorney's Office be authorized to execute the First Amendment to Agreement No. 2462 changing the law firm name from Hunt, Ortmann, Blasco, Palffy & Rossell, Inc. to Hunt, Ortmann, Palffy, Nieves, Lubka, Darling & Mah, Inc. and increasing the compensation to be paid to the law firm by \$900,000 (from \$700,000 to \$1,600,000) in connection with the prosecution of claims and defenses of the City of Los Angeles in the litigation captioned *Westcon Microtunneling, Inc. v. City of Los Angeles*, United States District Court Case No. CV05-7305 GPS (AJWx); (2) the attached Resolution changing the law firm name and increasing the compensation as stated above be adopted; and (3) the transfer of \$900,000 from the Unappropriated Balance to Division No. 120, Account No. 54410, Program No. 000, for services rendered in connection with the City's agreement with Hunt, Ortmann, Palffy, Nieves, Lubka, Darling & Mah, Inc. be authorized.

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H. PCAC ADVISORY RECOMMENDATIONS

- 1. PCAC recommends to the Board of Harbor Commissioners that the Board directs the Port of Los Angeles to consider both cancer and non-cancer health risks in their planned Health Risk Assessment in a manner consistent with the California Air Resources Board and the South Coast Air Quality Management District.**

(Motion of the Air Quality Subcommittee adopted at the February 20, 2007 PCAC meeting with the following votes:

Ayes: 10

Noes: 0

Abstentions: 8)

(See Attachment for full motion)

- 2. PCAC recommends to the Board of Harbor Commissioners that the Harbor Commission set a policy to include an evaluation of the potential contributions to greenhouse gases with the assistance of the California Air Resources Board (CARB) and the South Coast Air Quality Management District (SCAQMD) with each Environmental Impact Report.**

(Motion of the Air Quality Subcommittee adopted at the February 20, 2007 PCAC meeting with the following votes:

Ayes: 10

Noes: 5

Abstentions: 3)

(See Attachment for full motion)

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- 3. PCAC recommends that the Board of Harbor Commissioners:**
 - 1. Maintain existing membership and balance as originally established with the following two exceptions:**
 - a. Remove organizations that choose not to participate in PCAC functions on a regular basis (i.e., member or alternate who does/did not attend three PCAC meetings over twelve month period); and**
 - b. Provide opportunity for interested entities to be considered by complete PCAC for membership.**
 - 2. Appoint one commissioner to act as a liaison to PCAC to assure the orderly flow of information from the Board to PCAC and from PCAC to the Board.**
 - 3. Act on PCAC action items, recommendations, and appointments of new representatives within 30 days of the respective action, recommendation, or appointment reaching the Board.**
 - 4. Change the bylaw for voting to require a simple majority vote for a Motion to carry in accordance with Robert's Rules.**
 - 5. Authorize the continued staff and consultant support for the PCAC/PCAC subcommittees and, where Conflict of Interest prevents City Attorney assistance or participation, ensure the funding of an independent counsel/attorney for service to PCAC as requested by majority vote of PCAC, in accordance with City Attorney policies.**
 - 6. Continue to place the PCAC monthly report on the regular agenda of the BOHC with presentations scheduled for PCAC actions/recommendations when forwarded by PCAC and again as applicable if forwarded subsequently with Port Staff Report.**
 - 7. Maintain existing Subcommittee structure.**
 - 8. Require votes be taken to establish the Chair of PCAC and the Chairs of Subcommittees and immediately recognize the results of the voting.**

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3. (Continued)

9. Require that actions filed by subcommittees require a quorum in attendance for a vote to be taken.

10. Require continued compliance with the Brown Act and ensure meetings are open to Public.

(Motion of the Air Quality Subcommittee adopted at the February 20, 2007 PCAC meeting with the following votes:

Ayes: 13

Noes: 0

Abstentions: 1

(See Attachment for full motion)

I. CLOSED SESSION

1. Discussion of pending litigation entitled: Westcon Microtunneling, Inc., v. City of Los Angeles, United States District Court Case No. CV-05-7305, pursuant to subdivision (a) of Section 54956.9 of the California Government Code and retention of outside counsel.

2. Discussion of pending litigation entitled: Natural Resources Defense Council, Inc., et al. v. City of Los Angeles, et al., Los Angeles Superior Court Case No. BS070017, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.

3. Discussion with legal counsel concerning significant exposure to litigation (two cases) pursuant to subdivision (b)(1) of Section 54956.9 of the California Government Code.

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I. (Continued)

- 4. Instructions to negotiators relating to lease negotiations with Eagle Marine Services Ltd. concerning Permit No. 733, pursuant to Section 54956.8 of the California Government Code. Instructions to negotiators will concern price and terms of payment. The negotiator for Eagle Marine Services Ltd. will be Nathaniel Seeds. The negotiators for the Port of Los Angeles will be Kathryn McDermott and Michael Galvin.**

- 5. Instructions to labor negotiators relating to salaries, salary schedules and compensation in the form of fringe benefits for all civilian bargaining units under City of Los Angeles Memorandum of Understanding (MOU) Nos.: 00 Non-Represented; 01 Administrative; 02 Building Trades Rank/File; 03 Clerical; 04 Equipment Operation & Labor; 05 Inspector; 08 Professional Engineering & Scientific; 12 Supervisory Blue Collar; 13 Supervisor Building Trades; 14 Service & Crafts; 15 Service Employees; 17 Supervisory Professional Engineering & Scientific; 18 Safety/Security; 19 Supervisory Technical; 20 Supervisory Administrative; 21 Technical; 35 Hiring Hall; Management Employees; and 37 Executive Secretaries. The Port of Los Angeles representative is Rocki Walker.**