

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
THURSDAY, MAY 6, 2010 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 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 (<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. PRESENTATIONS

Retirement Resolution – Eileen Gray
Clean Truck Program

G. APPROVAL OF MINUTES

Minutes of the Regular Meetings of March 18, 2010, and April 1, 2010, for approval.

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H. BOARD REPORTS OF THE EXECUTIVE DIRECTOR

CONSENT ITEMS (1 - 7)

Commission Office

1. Re: RESOLUTION NO. _____ - APPROVAL OF TRAVEL FOR COMMISSIONER KAYLYNN L. KIM TO THE MIDWEST

Recommendation: Adoption of the subject Resolution approving travel for Commissioner Kaylynn L. Kim to participate in business development meetings with beneficial cargo owners and shippers.

Construction

2. Re: RESOLUTION NO. _____ - AWARD OF CONSTRUCTION CONTRACT CONTRACTOR: DOTY BROS. EQUIPMENT COMPANY BERTH 93 CRUISE TERMINAL ALTERNATIVE MARITIME POWER RETROFIT NO. 2 SPECIFICATION NO. 2729

SUMMARY: *This contract will authorize the contractor to install a 6.6 kilovolt (kV) Alternative Maritime Power (AMP) system at Berth 93 to complement the previously-installed 11 kV AMP system. Completion of the new 6.6 kV AMP system will provide the infrastructure necessary for the connection of all existing AMP-compatible cruise ships calling at Berth 93. The City of Los Angeles Harbor Department (Harbor Department) advertised and received ten bids for Specification No. 2729. The lowest responsive bidder is Doty Bros. Equipment Company (Doty Bros.), located in Norwalk, California. The contract amount is \$2,432,107, and the contract duration is 180 calendar days.*

Recommendation: Board resolve to (1) adopt Resolution No. _____ to award the above-mentioned contract for Item Nos. 1 through 7 of the proposal schedule to Doty Bros. in the amount of \$2,432,107; and authorize payment from the Harbor Department Construction Account. The contract time for performance of the work is 180 calendar days from the Notice to Proceed; (2) authorize the Executive Director to execute and the Board Secretary to attest to this contract for and on behalf of the Board; and (3) delegate and authorize the Executive Director to adjust final bid quantities in accordance with City Charter 655 (g) and accept the construction contract upon its completion.

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Environmental

3. Re: RESOLUTION NO. _____ - FUNDING OF THE PORT COMMUNITY MITIGATION TRUST FUND FOR CHINA SHIPPING PROJECT

SUMMARY: *On April 2, 2008, the Board of Harbor Commissioners (Board) approved a Memorandum of Understanding (MOU) between the City of Los Angeles (City) and the Appellants of the TraPac Environmental Impact Report. The MOU provided for the establishment of the Community Mitigation Trust Fund (Trust Fund) to be funded upon construction of specified Port of Los Angeles (Port) development projects. The Trust Fund is invested by the City of Los Angeles Treasurer's Office pending further discussions with the Appellants and restricted in use to the purposes specified in the MOU. With approval of construction of the China Shipping Terminal, staff now recommends transfer of \$4,017,300 from the Harbor Revenue Fund into the Trust Fund in accordance with the MOU. Upon deposit of the China Shipping Project funds, the Trust Fund will have a balance of \$15,257,300.*

Recommendation: Board resolve to (1) authorize the transfer of \$4,017,300 from the Harbor Revenue Fund to the "Community Mitigation Trust Fund"; (2) adopt Resolution No. _____ transferring the \$4,017,300; and (3) direct the Board Secretary to transmit the Resolution to the Mayor for approval pursuant to Section 343(b) of the City Charter.

Office of the City Attorney

4. Re: RESOLUTION NO. _____ - FOURTH AMENDMENT OF OUTSIDE COUNSEL AGREEMENT NO. 2477 WITH SCHEPER KIM AND OVERLAND LLP

SUMMARY: *The City Attorney requests approval of a Fourth Amendment to Agreement for Professional Legal Services No. 2477 (Agreement No. 2477) between the City of Los Angeles and Scheper Kim and Overland, increasing the term by one year, to a maximum of five years terminating on July 17, 2011. The Fourth Amendment will allow Scheper Kim and Overland to continue to assist the City Attorney in litigating a Federal Civil False Claims Act case in federal court entitled "The United States ex rel. Stanley Mosler et al v. City of Los Angeles Harbor Department, Port of Los Angeles, Board of Harbor Commissioners, Maersk, Inc., and Larry Keller". The proposed Fourth Amendment extends the term of the Agreement but does not request an increase in the appropriation.*

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4. (Continued)

Recommendation: Board resolve to (1) approve the Fourth Amendment to Agreement No. 2477 with Scheper Kim and Overland; (2) direct the Board Secretary to transmit the Fourth Amendment to Agreement No. 2477 to the City Council for its approval pursuant to Section 373 of the Charter; (3) authorize the Executive Director and Board Secretary to execute and attest to the Fourth Amendment; and (4) adopt this Resolution No. _____.

5. Re: RESOLUTION NO. _____ - AWARD OF AGREEMENTS FOR DISCOVERY AND DOCUMENT SERVICES TO DOCUMENT TECHNOLOGIES LLC, LITIGATION GRAPHIC TECHNOLOGY AND COPY PAGE INC

SUMMARY: As part of its representation of the Harbor Department, the Office of the City Attorney handles litigation, administrative proceedings, and other legal matters that from time-to-time require discovery and document services including such things as collection and processing of electronic data for discovery, and document scanning and photocopying. The Office of the City Attorney asks the Board to award agreements to three companies that were selected from a competitive RFP process: Litigation Graphic Technology located in the City of Los Angeles, Copy Page Inc., located in the City of Los Angeles and Document Technologies, LLC located in Atlanta, Georgia with local offices in Los Angeles, Litigation Graphic Technology and Copy Page Inc. are WBEs. Each agreement will be for three years with a not-to-exceed amount of \$41,250 each for a total of \$123,750.

Recommendation: Board resolve to (1) find in accordance to Charter Section 1022 that the scope of work of the proposed Agreements is of a temporary and occasional nature and is best completed and more feasibly provided by an outside contractor on an interim basis; (2) approve the individual and separate Agreements with Document Technologies LLC, Litigation Graphic Technology and Copy Page Inc.; (3) authorize the Executive Director and Board Secretary to execute and attest to the Agreements; and (4) adopt this Resolution No. _____.

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Real Estate

6. Re: RESOLUTION NO. _____ - FIRST AMENDMENT TO PERMIT NO. 881 WITH TRAPAC, INC. CONCERNING 2010 CONTAINER CUSTOMER INITIATIVES

SUMMARY: On December 10, 2009, the Board of Harbor Commissioners (Board) approved the 2010 Container Customer Initiatives under Resolution No. 09-6861, which provides an empty container discount, transshipment discount, and a one-time credit to container terminal tenants. The proposed First Amendment to Permit No. 881 with TraPac, Inc. (TraPac) will implement the 2010 Container Customer Initiatives for this tenant. Amendments to implement these initiatives for the other six container terminal tenants were approved on February 18, 2010. However, TraPac requested the City of Los Angeles Harbor Department (Harbor Department) hold approval of the First Amendment pending further analysis of the proposed terms.

The proposed First Amendment to Permit No. 881 would result in a reduction of total Harbor Department operating revenue by approximately \$2,554,586 for Fiscal Years 2008/2009 and 2009/2010 and estimated at \$500,216 annually thereafter until the empty container and transshipment discounts are terminated by the Board.

Recommendation: Board resolve to (1) approve the First Amendment to Permit No. 881 with TraPac; (2) direct the Board Secretary to transmit the First Amendment to Permit No. 881 to the City Council for approval pursuant to Section 606 of the City Charter; (3) authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment upon approval by City Council; and (4) adopt Resolution No. _____.

7. Re: RESOLUTION NO. _____ - PROPOSED FOURTH AMENDMENT TO PERMIT NO. 888 WITH EVERGREEN MARINE CORPORATION FOR TEMPORARY CONSUMER PRICE INDEX RELIEF

SUMMARY: Permit No. 888 with Evergreen Marine Corporation (Evergreen) for container terminal operations includes a provision that adjusts compensation rates annually based upon the Consumer Price Index (CPI). Although the annual CPI adjustment mechanism is being introduced into City of Los Angeles Harbor Department (Harbor Department) permits over time, this provision is currently unique to

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7. (Continued)

Evergreen among the container terminal tenants. During the current period of economic downturn, it is important to maintain comparable and competitive TEU compensation rate ranges for similar Harbor Department tenants. Therefore, it is recommended that the Permit No. 888 annual CPI adjustment be waived for Evergreen's 2010 compensation year.

The proposed Fourth Amendment to Permit No. 888 provides relief from the 2010 compensation year CPI adjustment. The change would be limited to a 12-month period effective January 1, 2010 through December 31, 2010. All other terms and conditions of Permit No. 888 would remain unchanged.

Recommendation: Board resolve to (1) approve the proposed Fourth Amendment to Permit No. 888 with Evergreen; (2) direct the Board Secretary to transmit the Fourth Amendment to the City Council for approval pursuant to Section 606 of the City Charter; (3) authorize the Executive Director to execute and the Board Secretary to attest to the Fourth Amendment upon approval by City Council; and (4) adopt Resolution No. _____.

REGULAR ITEMS (8 - 11)

Clean Truck Program

8. Re: RESOLUTION NO. _____ - APPROVAL OF FIRST AMENDMENT TO AGREEMENT NO. 08-2720 AMONG CITIES OF LOS ANGELES AND LONG BEACH, PORTCHECK, LLC, AND MARINE TERMINAL OPERATORS FOR THE COLLECTION OF CLEAN TRUCK FEES

SUMMARY: *This request is to approve the proposed First Amendment to Agreement No. 08-2720 dated October 20, 2008 among the City of Los Angeles, Harbor Department (Harbor Department), City of Long Beach, Harbor Department (Port of Long Beach), PortCheck LLC, and 13 Marine Terminal Operators (MTOs). Agreement No. 08-2720 was entered into by these parties to establish PortCheck as Vendor on behalf of the MTOs to collect a Clean Truck Fee (CTF) in connection with Clean Truck Programs enacted under tariffs by the Harbor Department and Port of Long Beach (collectively, Ports). Agreement No. 08-2720 established an annual operating reimbursement budget in the amount not-to-exceed \$7,638,055, which funded the first year of services with the expectation that a reassessment of funding requirements would be made after year one. The*

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8. (Continued)

proposed First Amendment would approve an operating budget to fund the second year of services in the amount of \$4,800,000, a reduction of \$2,838,055 from the first year funding. Based on actual PortCheck LLC billings from the past 12 months, the Harbor Department's share of the \$4,800,000 is expected to be about 58% of the total (based on a higher Port of Los Angeles cargo throughput compared to the Port of Long Beach) or approximately \$2.8 million.

Recommendation: Board resolve to (1) approve the proposed First Amendment to Agreement No. 08-2720 in substantial form between the Cities of Los Angeles and Long Beach, PortCheck, LLC., and 13 Marine Terminal Operators to amend the approved reimbursement budget to fund one additional year of services required to continue the collection of Clean Truck Fees at a not-to-exceed shared cost amount of \$4,800,000 (proportionally split between the Cities of Los Angeles and Long Beach due to differences in cargo volume and actual PortCheck's billings over the past 12 months), and authorize the Executive Director to make any non-substantial changes necessary to finalize the document and secure signatures by all parties and make any filings with the Federal Maritime Commission, subject to approval as to form and legality from the Office of the City Attorney (see Transmittal 1); (2) authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment to Agreement No. 08-2720 for and on behalf of the Board; and (3) adopt Resolution No. _____.

9. Re: RESOLUTION NO. _____ - ALTERNATIVE FUEL TRUCK PROGRAM - SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING AMONG THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT AND THE CITIES OF LOS ANGELES AND LONG BEACH

SUMMARY: *The requested action is for the Board of Harbor Commissioners (Board) to approve an Amendment dated April 30, 2010 (Second Amendment) to the First Amended and Restated Memorandum of Understanding (First Amended and Restated MOU) among the South Coast Air Quality Management District (AQMD), City of Los Angeles Harbor Department (Harbor Department), and City of Long Beach (Port of Long Beach or POLB). The First Amended and Restated MOU sets forth the duties and responsibilities of the AQMD for administration of an alternative fuel truck grant program (Alternative Fuel Truck Grant*

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9. (Continued)

Program) for the AQMD, Harbor Department, and POLB, including a requirement that all trucks be delivered and able to be put into service by April 30, 2010 (Delivery Deadline).

The proposed Second Amendment would extend the Delivery Deadline by two months, to June 30, 2010, to allow more time for remaining alternative fuel trucks to be delivered and able to put into service at the Ports. This extension would only allow continuation of grant administration past April 30, 2010. It would not allow the drivers to continue driving their old trucks past April 30, 2010.

Recommendation: Board resolve to (1) approve the Second Amendment to the First Amended and Restated MOU among AQMD, Harbor Department, and POLB, which extends the Delivery Deadline by two months from April 30, 2010 to June 30, 2010 (Transmittal 1); (2) authorize the Executive Director to execute and the Board Secretary to attest to the Second Amendment; and (3) adopt Resolution No. _____.

Finance

10. Re: RESOLUTION NO. _____ - TO ESTABLISH A POOL OF FIRMS TO PERFORM AUDIT AND CONSULTING SERVICES, CREATING PERSONAL SERVICES AGREEMENTS WITH EACH

SUMMARY: *The City of Los Angeles Harbor Department (Harbor Department) proposes to establish a pool of consulting firms for a period of three years to augment its internal staff in performing internal management audits of its operations on an as-needed basis. The total aggregate amount anticipated to be spent is \$1,200,000 over the three years. As management audits and reviews are identified, the Executive Director will approve each audit on a per project basis contingent upon available funding.*

This is the first time the Harbor Department has established an audit pool of consulting firms. However, the pool concept has been used extensively throughout state, county, and local governmental entities for many years. Within the City, other Harbor Department divisions, the Office of the Controller, and Los Angeles World Airports (LAWA) also use consultant pools. In the past, the Harbor Department has contracted with audit and consulting firms for specific audit tasks on a per project basis.

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10. (Continued)

Recommendation: Board resolve to (1) find that in accordance with the City of Los Angeles Charter Section 1022, work under the Subject Agreements is temporary in nature and can be performed more feasibly by independent consultants rather than by City employees; (2) approve and appoint the audit pool consisting of the following eighteen (18) selected audit and consulting firms for a period of three years each, in substantial form, as per the Agreement Template (Transmittal #1): a) Altmayer Consulting Inc.; b) Arroyo Associates Inc.; c) Bronner Group LLC.; d) Citygate Associates LLC.; e) GCAP Services Inc. f) Harvey M. Rose Associates LLC.; g) KNL Support Services; h) KPMG LLC., (specific indemnity language); i) LBL Technology Partners LLP.; j) Macias Consulting Group LLC.; k) Mayer Hoffman McCann, PC.; l) Nunez and Associates Inc.; m) Sjoberg Evashenk Consulting Inc. n) Tatum and Associates LLC.; o) Thomas Consulting Inc.; p) Thompson Cobb Bazilio Associates, PC.; q) Trauner Consulting Services Inc.; r) ValuPoint Consulting and Professional Services LLC.; (3) authorize the Executive Director or designee to approve Task Orders on a per project basis, contingent upon verification of available funding, as adopted by the Board for each budget year, and not to exceed an aggregate amount of \$1,200,000 in total compensation among the pool list; (4) authorize the Executive Director to execute and the Board Secretary to attest to said Agreements for and on behalf of the Board; and (5) adopt Resolution No.

_____.

11. Re: RESOLUTION NO. _____ - AWARD OF AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND KRONOS OPTIMAL HEALTH COMPANY TO MANAGE THE EMPLOYEE-BASED WELLNESS PROGRAM

SUMMARY: This Agreement between the City of Los Angeles and Kronos Optimal Health Company, of Agoura Hills, California, will provide an employee-based Wellness Program coordinator for the City of Los Angeles Harbor Department (Harbor Department). This will include a wide variety of services including physical fitness and nutrition advice, which will seek to achieve an improvement in overall employee health and wellness, and subsequent reduction in employee injuries and absenteeism. The Harbor Department's Risk Management function will continue to monitor the usage of Injured on Duty hours and monthly workers' compensation claims. Additionally, employee sign-ups and fitness class attendance will be obtained to use as one factor in determining the effectiveness of the employee-based Wellness Program.

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11. (Continued)

This Agreement is for a one-year period with two (2) one-year renewal options at a not-to-exceed amount of \$200,000 for each year, or \$600,000 in aggregate.

Recommendation: Board resolve to (1) find that in accordance with the City of Los Angeles Charter Section 1022, work under the subject Agreements is temporary in nature and can be performed more feasibly by independent consultants rather than by City employees; (2) approve the Agreement between the City of Los Angeles and Kronos Optimal Health Company (Transmittal 1); (3) authorize the Executive Director to execute and the Board Secretary to attest to this Agreement for and on behalf of the Board; (4) authorize the Executive Director to approve the renewal options; and (5) adopt Resolution No. _____.

I. **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.

2. **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 Eagle Marine.

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

Initiation of litigation pursuant to subdivision (c) of Section 4956.9: one case.

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

The United States of America ex rel. State of California ex rel. Stanley D. Mosler v. City of Los Angeles, et al., United States District Court Case No. 02-02278-SJO

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CLOSED SESSION (Continued)

**5. 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**

**6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Government Code Section 54956.8)**

**Provide instructions to its real estate negotiators with respect to
purchase and sale negotiations with Port of Los Angeles High
School concerning Permit No. 867:**

Property: 250 West Fifth Street, San Pedro

City Negotiator: Michael Galvin

Tenant Negotiator: James Cross

Negotiating Parties: City and Port of Los Angeles High School

Under Negotiation: Price and Terms