

**AGENDA OF THE SPECIAL MEETING OF THE  
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1  
THURSDAY, APRIL 16, 2009, AT 8:30 A.M.  
BANNING'S LANDING COMMUNITY CENTER  
100 EAST 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**

**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. APPROVAL OF MINUTES**

Minutes of the regular meetings of Los Angeles Board of Harbor Commissioners of September 4, 2008 and October 2, 2008 and special meetings of October 2, 2008 and November 20, 2008, for approval.

**G. SPECIAL ORDER OF THE DAY**

**Public Hearing**

**1a. ISSUANCE OF A LEVEL III COASTAL DEVELOPMENT PERMIT**

Public hearing to receive comments pursuant to the California Coastal Act of 1976, as amended, and the Port of Los Angeles certified Port Master Plan (PMP); and to approve a Level III Coastal Development Permit for Phases II and III of the China Shipping Terminal Project, Berths 97-109.

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H. REPORTS OF THE EXECUTIVE DIRECTOR

Planning & Research

- 1b. Re: RESOLUTION NO. \_\_\_\_\_ FOR THE ISSUANCE OF A LEVEL III COASTAL DEVELOPMENT PERMIT (NO. 09-02) FOR PHASES II AND III OF THE CHINA SHIPPING TERMINAL PROJECT, BERTHS 97-109

*SUMMARY: The Los Angeles Harbor Department (Harbor Department) is proposing to construct Phases II and III of the China Shipping Terminal Project at Berths 97-109. The proposed scope of work includes wharf and backland construction. Staff is recommending that the Board of Harbor Commissioners (Board) approve a Level III, non-appealable Coastal Development Permit for the proposed project.*

**Recommendation:** Resolve that (1) a public hearing for the proposed Level III Coastal Development Permit be held; (2) the Board find that the proposed project is consistent with the Port Master Plan and the California Coastal Act of 1976, as amended; the Board find that although the proposed project has adopted all available feasible mitigation measures provided by the Berths 97-109 China Shipping Terminal Project Environmental Impact Report (EIR), there remain adverse environmental impacts for which there are no feasible mitigation measures available, and that the Board included the adoption of a statement of overriding considerations; (3) upon closure of the public hearing, resolve that the issuance of a Level III, non-appealable Coastal Development Permit (CDP No. 09-02) to construct Phases II and III of the China Shipping Terminal Project at Berths 97-109, be approved and granted subject to the standard conditions set forth in the permit, and the Director of Planning & Research be directed to issue said permit; and (4) Resolution No. \_\_\_\_\_ be adopted.

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**Consent Items (2-10)**

**Construction & Maintenance**

2. Re: RESOLUTION NO. \_\_\_\_\_ - AWARD OF CONTRACT NO. 39471 WITH THE JANKOVICH COMPANY FOR MARINE DELIVERED FUEL

*SUMMARY: This letter recommends the award of a one-year annual contract with two, one-year renewal options to The Jankovich Company of San Pedro, California for marine delivered fuel to be used in the City of Los Angeles, Harbor Department (Harbor Department) vessels for an amount not-to-exceed \$280,000 per year, including sales tax. Harbor Department vessels currently run on ultra low sulfur diesel fuel or gasoline and this Request for Bid (RFB) sought the lowest price and most efficient facilities to supply the fueling needs of the Harbor Department.*

**Recommendation:** Board resolve that (1) the contract with The Jankovich Company of San Pedro, California, be approved and the expenditures be authorized for a term of one year with two, one-year renewal options in an amount not-to-exceed \$280,000 per year for the purchase of marine delivered fuel; (2) the Executive Director be authorized to execute and the Board Secretary to attest to the contract; and (3) Resolution No. \_\_\_\_\_ approving a one-year contract with two, one-year renewal options with The Jankovich Company of San Pedro, California be adopted.

**Debt & Treasury**

3. Re: RESOLUTION NO. \_\_\_\_\_ AUTHORIZING THE DEPARTMENT TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR EXPENDITURES MADE IN CONNECTION WITH THE ACQUISITION AND CONSTRUCTION OF CERTAIN PORT-RELATED CAPITAL IMPROVEMENTS

*SUMMARY: This Resolution authorizes the Harbor Department to reimburse itself from the proceeds of a new bond issue for monies it may have previously advanced for capital projects 60 days prior to the date of this Resolution (Transmittal 1).*

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3. (Continued)

**Recommendation:** Board resolve that (1) reimbursement of the Harbor Revenue Fund (Fund 702) be authorized from the proceeds of a new money debt issuance for expenditures made no more than 60 days prior to this date and/or to be made in connection with the acquisition and construction of capital improvements; and (2) Resolution No. \_\_\_\_\_ be adopted.

4. Re: RESOLUTION NO. \_\_\_\_\_ TO ESTABLISH THE  
MINIMUM COMBINED CASH BALANCE IN THE  
HARBOR DEPARTMENT'S EMERGENCY RESERVE  
FUND (FUND 751) AND STRATEGIC OPERATING  
FUND

*SUMMARY: This Resolution modifies Resolution No. 08-6616, adopted Financial Policies of the Harbor Department, by amending Section 4 and Section 6.v. to establish an unrestricted Strategic Operating Fund which the combination of this new fund plus the Emergency Reserve Fund (Fund 751) will equal \$235 million.*

*The Harbor Department's Financial Reserve Policy, which is consistent in design with the City's, includes an Emergency Fund, a Debt Service Reserve Fund, and a Port Strategic Reserve Fund. Please see Transmittal 1. While the Department funded the Emergency Fund and the Debt Service Reserve Fund, the Port Strategic Reserve Fund was never cash-funded. The Financial Policy specifies that the reserves be established to manage the Department's financial risks prudently.*

*At its February 5, 2009 meeting, the Board of Harbor Commissioners directed staff to investigate a minimum level of cash that the Department should keep on hand, given the recent volatility in the financial markets.*

**Recommendation:** Board resolve that (1) Section 6.v. of the Debt Management Policy be revised to eliminate the working capital component of the Working Capital/Emergency Reserve Fund (Fund 751) such that this Fund consists of Emergency Reserves only; (2) an unrestricted Strategic Operating Fund be established to be funded from Harbor Revenue Fund (Fund 702) with an initial deposit that combined with the Emergency Fund would equal \$235 million. The balance in this Fund is subject to

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4. (Continued)

the annual review during the budgeting process and all deposits and withdrawals from this account are to be approved by the Harbor Commission (3) Resolution No. \_\_\_\_\_ be adopted.

Marketing

5. Re: RESOLUTION NO. \_\_\_\_\_ APPROVAL OF  
FOREIGN-TRADE ZONE GENERAL PURPOSE  
OPERATING AGREEMENT BETWEEN THE CITY OF  
LOS ANGELES AND ASK MARINE, INC., FTZ 202 SITE  
15

*SUMMARY: The Los Angeles Harbor Department (Harbor Department), as the Foreign-Trade Zone (FTZ) grantee, executes General Purpose Operating Agreements (Operating Agreement) with FTZ operators to enable the Harbor Department to oversee their FTZ operations. The Harbor Department received a request from ASK Marine, Inc. (ASK) to activate their site within FTZ 202 Site 15, located at 1020 McFarland Avenue, Wilmington, California. This site includes approximately 159,865 square feet of warehouse and office space on 4 acres. ASK 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.*

**Recommendation:** Board resolve that (1) the subject FTZ Operating Agreement between the City of Los Angeles and ASK be approved; (2) the Board Secretary be authorized and directed to transmit the proposed FTZ 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 the City Council, authorize the Executive Director to execute and the Board Secretary to attest to the proposed FTZ Operating Agreement; and (4) Resolution No. \_\_\_\_\_ be adopted.

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**Information Technology & Real Estate**

6. Re: **RESOLUTION NO. \_\_\_\_\_ - AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND ASSETWORKS, INC. FOR THE PURCHASE OF FACILITYMAX™ AND FOR SOFTWARE IMPLEMENTATION SERVICES**

*SUMMARY: The proposed three-year Agreement with AssetWorks, Inc. (AssetWorks) provides for the purchase of FacilityMax™ software, software implementation, and maintenance services. This will facilitate the City of Los Angeles, Harbor Department (Harbor Department) Real Estate Division's ability to manage leases, facilities, and space availability and share this information with other divisions, Senior Management, and the Board of Harbor Commissioners. The benefits to the Harbor Department include: improved customer service, accurate return on investment analysis on facilities, information sharing amongst divisions, and comprehensive and readily available information on all Harbor Department property, leases, permits, and compensation terms. This will ultimately translate into more revenue for the Harbor Department through the creation of administrative efficiencies and timelier resetting of compensation. Because no such system is in place, staff has been delayed in resetting compensation. Compensation was reset for several tenants in 2006 and 2007 and over \$3 million in retroactive payments were received by the Harbor Department. Some payments were retroactive to 2003. Although the retroactive payments were received, approximately \$90,000 a year in interest, using a three percent interest rate average, was not realized.*

*Implementation of a software program with these capabilities has been a focus of the Real Estate Division since 2006, as the current combination of index card lease summary information and Excel spreadsheet lease logs has proven inadequate in carrying out the daily duties of the Real Estate Division. The current system does not offer any flexibility in relation to management or sharing of information and is well below private or public industry standards for management of a lease portfolio consisting of over 300 individual leases and over \$350 million in*

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6. (Continued)

*annual revenue. AssetWorks will configure the software to meet the Harbor Department's needs. This three-year Agreement is for an amount not to exceed \$398,000. AssetWorks is located in San Antonio, Texas.*

**Recommendation:** Resolve that (1) the Board find that in accordance with the City Charter Section 1022, work under the subject Agreement is temporary in nature and can be performed in a more efficient and cost-effective manner by AssetWorks; (2) the Agreement with AssetWorks be approved in the not-to-exceed amount of \$398,000 for software, implementation services, three years of software maintenance, and the expenditure of said amount be authorized; (3) the Executive Director be authorized to execute the Agreement and the Board Secretary to attest to said Agreement; and (4) Resolution No. \_\_\_\_\_ be adopted.

**Real Estate**

7. Re: RESOLUTION NO. \_\_\_\_\_ - PROPOSED REVOCABLE PERMIT AND SPACE ASSIGNMENT CONSOLIDATION - EVERGREEN MARINE CORPORATION

*SUMMARY: In December of 2008, the Los Angeles Harbor Department (Harbor Department) reached out to all container terminal tenants to address concerns raised by a number of tenants due to the ongoing economic downturn and its impact on their operations at the Port of Los Angeles (Port). The Harbor Department received specific comments from Evergreen Marine Corporation (Evergreen) proposing a revision to their current compensation structure in order to make them more competitive with other container terminals in the San Pedro Bay. The Harbor Department is open to further exploring this proposal with Evergreen, however, due to the worsening economic situation, the tenant together with the Harbor Department have developed a temporary proposal that will offer Evergreen immediate temporary financial relief.*

*Permit No. 888 grants Evergreen use of 124 acres (AC) of terminal area, preferential nonexclusive use of Berths 226 to 232 (3,000 linear feet), and secondary nonexclusive use of Berths 233-236 (1,750 linear feet) on Terminal Island.*

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*Evergreen also occupies land under space assignments consisting of 24.78 and 1.95 AC for a total of 26.73 AC, respectively, at Berths 233-236 and at the southwest corner of Terminal Way and Earle Street on Terminal Island. Staff is recommending a temporary consolidation of space assignments to a revocable permit (RP) for up to a 12-month period and allowing compensation to be adjusted based on a sliding scale. At the expiration of the 12-month period or an earlier negotiated resolution of the larger rate issue, the original terms and conditions of the space assignments will replace the temporary RP if occupancy continues.*

**Recommendation:** Board resolve that (1) the proposed RP with Evergreen for a 12-month period be approved; (2) the Executive Director be authorized to execute and the Board Secretary to attest to the RP; and (3) Resolution No. \_\_\_\_\_ be adopted.

**Homeland Security**

8. Re: RESOLUTION NO. \_\_\_\_\_ PROPOSED  
MEMORANDUM OF UNDERSTANDING BETWEEN THE  
PORT OF LOS ANGELES AND THE PORT OF LONG  
BEACH FOR REIMBURSEMENT OF FUNDS UNDER  
ROUND SEVEN SUPPLEMENTAL OF THE FEDERAL  
PORT SECURITY GRANT PROGRAM

*SUMMARY: The U.S. Department of Homeland Security (DHS) awarded a Federal grant in the amount of \$8,053,509 to the Los Angeles/Long Beach Port-region through Round Seven Supplemental of the Federal Port Security Grant Program (PSGP) in October 2007. The City of Los Angeles Harbor Department (Harbor Department) is the Fiduciary Agent for these PSGP funds and, as such, is required to manage their distribution within the Port-region.*

*The PSPG required the development of a Port-wide Risk Management and Mitigation Plan (Plan). The Port of Long Beach (POLB) accepted responsibility to complete the Plan and did so with the services of a consultant. Funds used to create this Plan are fully reimbursable under the DHS PSGP. Upon approval of this Memorandum of Understanding (MOU), the Harbor*

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8. (Continued)

*Department will reimburse POLB for planning and developing the Plan in the amount of \$500,000.*

*The intent of the MOU is to memorialize the understanding between the Harbor Department and the POLB with respect to POLB's activities developing the Plan and obtaining reimbursement for their expenditures.*

**Recommendation:** Board resolve that (1) the Executive Director or her designee be authorized to execute and the Board Secretary to attest to said MOU on behalf of the Board; (2) the Harbor Department be authorized to reimburse POLB for its costs related to planning and developing a Port-wide Risk Management and Mitigation Plan relating to Round Seven Supplemental grant activities; and (3) Resolution No. \_\_\_\_\_ accepting the MOU with the City of Long Beach Harbor Department (POLB) under the Round Seven Supplemental of the Federal Port Security Grant Program be adopted.

**Environmental**

9. Re: RESOLUTION NO. \_\_\_\_\_ - PROPOSED FIRST AMENDMENT TO AGREEMENT NO. 2663 WITH OCEANAIR ENVIRONMENTAL, LLC TO DEVELOP, INSTALL, AND CERTIFY AN EMISSIONS REDUCTION RETROFIT KIT FOR MARINE DIESEL ENGINES

*SUMMARY: OceanAir Environmental, LLC is currently under contract with the Port of Los Angeles to develop, install, and certify an electronic injection retrofit kit for Electro Motive Diesel marine engines for \$575,000. Agreement No. 2663 with OceanAir Environmental LLC is a one year agreement. OceanAir has requested additional time to complete the project and demonstrate the technology within the operating schedule of the vessel operator. Staff recommends amending Agreement No. 2663 to extend the term of the agreement by one year thereby increasing the term to two years. There is no impact on project cost.*

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9. (Continued)

**Recommendation:** Board resolve that (1) Amendment No. 1 to Agreement No. 2663 with OceanAir Environmental, LLC to increase the term to two years be approved; (2) the Executive Director be authorized to execute and the Board Secretary to attest to said amendment for and on behalf of the Board; and (3) Resolution No. \_\_\_\_\_ be adopted.

## **Regular Item (10-16)**

### **Planning & Research**

10. Re: RESOLUTION NO. \_\_\_\_\_ PORT MASTER PLAN  
AMENDMENT NO. 24 – MAIN CHANNEL DEEPENING  
PROJECT

*SUMMARY: Staff recommends that the Board of Harbor Commissioners (Board) adopt Port Master Plan Amendment No. 24 (Amendment No. 24), and authorize the Executive Director to submit Amendment No. 24 to the California Coastal Commission for certification, as required by the California Coastal Act. Amendment No. 24 allows for the completion of the Main Channel Deepening Project (MCD Project) and disposal of approximately three million cubic yards (cy) of material at various disposal sites within the Port of Los Angeles (Port). Adoption of Amendment No. 24 is contingent upon certification of the Final Supplemental Environmental Impact Report (Final SEIR) by the Board.*

**Recommendation:** Resolve that (1) Amendment No. 24 be approved and the Board find that this Board certified the Final SEIR and approved the MCD Project, which included the adoption of a statement of overriding considerations; (2) the Executive Director be authorized to submit Amendment No. 24 to the California Coastal Commission for certification; and (3) Resolution No. \_\_\_\_\_ be adopted.

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Information Technology

11. Re: RESOLUTION NO. \_\_\_\_\_- AGREEMENT WITH EN POINTE TECHNOLOGIES, INC. FOR INTEL-BASED COMPUTERS, LOCAL AREA NETWORK EQUIPMENT AND OTHER RELATED EQUIPMENT, SUPPLIES, AND SERVICES

*SUMMARY: The Information Technology Division (ITD) is requesting approval to award an agreement to En Pointe Technologies, Inc. in an amount not-to-exceed \$1,500,000 for the purchase of Intel-based computers, local area network (LAN) equipment, and other related equipment, supplies, and services to support on-going operations. The expiration date of this agreement shall be August 31, 2011.*

*This agreement will be used primarily to replace obsolete Information Technology (IT) hardware and purchase IT supplies for on-going operations. The incidental services component is less than \$25,000 for the term of this agreement.*

*This recommendation is based on the competitive bid process performed by the Los Angeles World Airports (LAWA) for its contract DA-4301 in 2008.*

*En Pointe Technologies, based in Gardena, California, is certified as a Minority Business Enterprise (MBE) by the National Minority Supplier Development Council (NMSDC) and is the first public company to receive this certification.*

**Recommendation:** Resolve that (1) the find that in accordance with City Charter Section 10.15, the competitive contracting requirement is met using the responses from LAWA's Request for Bids (RFB) No. 107-112 in 2008, which resulted in LAWA awarding its contract DA-4301; (2) the Board find that City Charter Section 1022 determination is not required because the incidental services component value will be less than \$25,000 for the term of this agreement; (3) the agreement with En Pointe Technologies, Inc. for the purchase of Intel-based computers, local area network equipment, and other related equipment, supplies, and services for an amount not-to-exceed \$1,500,000 with an expiration term of August 31, 2011 be approved; (4) the Executive Director or designee be authorized to execute the agreement and the Board Secretary to attest to said agreement; and (5) Resolution No. \_\_\_\_\_ be adopted.

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City Attorney

12. Re: RESOLUTION NO. \_\_\_\_\_ WAIVING THE  
POTENTIAL CONFLICT WITH RESPECT TO MAYER  
BROWN, LLP REPRESENTATION OF KINDER  
MORGAN ENERGY PARTNERS, LP

*SUMMARY: The proposed action involves the Board approval of a requested waiver of a potential conflict of interest from the law firm of Mayer Brown, LLP. The firm represents the City of Los Angeles in the United States of America Ex Rel. State Of California Ex Rel., Stanley D. Mosler vs. City Of Los Angeles, et al., U.S.D.C., Case No. CV-02-2278 SJO (RZX). Now, it seeks to represent Kinder Morgan Energy Partners, LP in connection with litigation settlement and lease negotiations with the City.*

**Recommendation:** Resolve that (1) the Board formally waives any potential conflict that might arise by way of Mayer Brown, LLP representation of Kinder Morgan Energy Partners, LP; (2) the City Attorney's Office be authorized to execute a written conflict waiver; and (3) Resolution No. \_\_\_\_\_ approving the conflict waiver be adopted.

Goods Movement

13. Re: TEMPORARY ORDER NO. \_\_\_\_ AND PERMANENT  
ORDER NO. \_\_\_\_\_ AMENDING PORT OF  
LOS ANGELES TARIFF NO. 4, SECTION 21, ITEM NO.  
2105, INFRASTRUCTURE CARGO FEE

*SUMMARY: On December 18, 2008, the Board of Harbor Commissioners approved the amendment to the Infrastructure Cargo Fee (ICF) tariff, in the amount of \$6/loaded (imports and exports) twenty-foot equivalent unit (TEU), to commence July 1, 2009. This fee was predicated upon environmental clearance of several projects occurring in late 2008/early 2009. Due to additional delays in the environmental documentation phase for some of the projects, and to provide further financial relief for shippers, staff recommends the postponement of the collection of the ICF at least until July 1, 2010, and at an amount to be determined by March 31, 2010, at the latest. This ensures shippers, steamship lines, and terminal operators have this*

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*information when negotiating their contracts for 2010/2011 period. The Port of Long Beach (POLB) Board is expected to approve this same postponement of the ICF on April 20, 2009.*

**Recommendation:** Board resolve that (1) the amendment to Port of Los Angeles Tariff No. 4, Section 21, Item No. 2105, to (i) amend the date of ICF collection to commence on July 1, 2010 be approved, and (ii) revise the amount of the ICF to be unspecified at this time, but such amount to be determined by March 31, 2010 be approved. The "Computation Methodology" referred to in the Tariff will also be revised accordingly at such time as the ICF is recomputed. This amendment shall be subject to California Association of Port Authorities (CAPA) review and approval, and the Executive Director is authorized to present the tariff amendment to CAPA to secure CAPA approval or proceed to take independent action in accordance with CAPA procedure; (2) Temporary Order and a Permanent Order to amend the Port of Los Angeles Tariff No. 4, Section 21, Item No. 2105 be adopted; (3) the form of the Ordinance approving the Order be approved; (4) the Board Secretary be authorized to certify to the adoption of the Order by the Board of Harbor Commissioners 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); (5) the Board Secretary be directed to transmit to the Mayor and City Council for approval the Order and Ordinance approving and authorizing the amendment to Tariff No. 4 pursuant to City Charter 653(a); (6) the Board Secretary be directed and authorized to execute the proposed Board Order and Ordinance amending Tariff No. 4, and upon its publication, transmit the Order and Ordinance to the Chief Wharfinger for implementation of the tariff change and posting the amended Tariff No. 4 to the Port of Los Angeles (POLA) website as regulated by the Federal Maritime Commission; and (7) the Board Secretary, following the publication of the Order, be directed to notify the Mayor and the City Council that Permanent Order No. 6976 (approved December 18, 2008) and the proposed Ordinance adopting same may be withdrawn from consideration as they shall be superseded by the Order adopted herein.

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**Environmental Management & Government Affairs**

**14. Re: RESOLUTION NO. \_\_\_\_\_ - AMERICAN  
RECOVERY AND REINVESTMENT ACT FUNDING**

*SUMMARY: Staff is requesting approval to apply for the following eight grants for American Recovery and Reinvestment Act of 2009 (ARRA) funding:*

#	Grant Program – Project	Grant Request	Department Matching Funds
1	<i>Diesel Emissions Reduction Act National Clean Diesel Program (DERA 1) – Clean Trucks Program</i>	\$10,000,000	\$18,000,000
2	<i>DERA 1 – AMP Infrastructure</i>	\$10,000,000	Not Required
3	<i>DERA 1 – Harbor Fleet Retrofits</i>	\$340,000	\$426,000
4	<i>DERA 1 – Tenants eRTG projects</i>	\$10,000,000	Not Required
5	<i>DERA 1 – Tenants non-eRTG projects</i>	\$10,000,000	Not Required
6	<i>DERA Clean Diesel Emerging Technologies Program (DERA 2) – Electric Trucks</i>	\$3,000,000	Not Required
7	<i>Department of Energy (DOE) – Electric Trucks</i>	\$20,000,000	\$5,000,000
8	<i>DOE – AMP Infrastructure</i>	\$10,000,000	\$2,500,000

*There are two different stimulus programs from which the Port is seeking funding: The Diesel Emissions Reduction Act (DERA) is for new vehicles, retrofits, and other technology to reduce diesel emissions. The program provides 100% funding, though prioritizes projects with matching funds. "Department Matching Funds" are those already budgeted for the various projects. DERA 1 applications are due April 28 and the maximum grant amount is \$10,000,000; DERA 2 applications are due May 5 and the maximum grant amount is \$3,000,000.*

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14. (Continued)

*The Department of Energy (DOE) ARRA funding is from a recently created Transportation Electrification program, which is not conducive to an application from one port alone because applicants are required to demonstrate technologies in multiple, diverse geographic locations. The exact details of the Port application are therefore still being determined. This DOE program is for vehicle- and vessel-focused projects only and therefore cannot be utilized for projects such as the solar project. There will be future opportunities through ARRA-funded programs to apply for the solar project and additional priority Port projects. The DOE program has no maximum grant amounts and minimum grant amounts of \$20,000,000 for vehicle demonstration projects and \$10,000,000 for vehicle and vessel infrastructure electrification projects. Applications are due May 13.*

**Recommendation:** Board resolve that (1) the Executive Director be authorized and directed to apply for funding from the American Recovery and Reinvestment Act of 2009 (Recovery Act) for the Clean Truck Program (CTP), Alternative Maritime Power (AMP) infrastructure projects, Port of Los Angeles tenant projects, and Harbor Department fleet equipment projects; (2) the Executive Director be authorized and directed to negotiate and return to the Board for approval the grant agreements with the United States Environmental Protection Agency and the United States Department of Energy for Recovery Act funds awarded to the Harbor Department; (3) the Executive Director be authorized and directed to negotiate and return to the Board for approval agreements with Port of Los Angeles tenants, vehicle manufacturers and truck owners to transfer funds awarded; and (4) Resolution No. \_\_\_\_\_ be adopted.

**Environmental**

15. Re: RESOLUTION NO. \_\_\_\_\_ - FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) FOR THE CHANNEL DEEPENING PROJECT (LAHD ADP NO. 990809-102; SCH NO. 1999091029)

*SUMMARY: Staff recommends that the Board of Harbor Commissioners (Board) certify the Final Supplemental Environmental Impact Report (SEIR) for the Channel Deepening*

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15. (Continued)

*Project in accordance with the California Environmental Quality Act (CEQA), and approve the proposed Project. The proposed Project being carried out by the U.S. Army Corps of Engineers would provide additional capacity for disposal of dredged material associated with completing the Channel Deepening Project at the Port of Los Angeles (Port). This SEIR supplements the Channel Deepening Project EIR approved in 2000 and addresses impacts related to the modifications required to complete disposal of dredged material from that authorized project. The scope of the proposed Project is the same as that of the 2000 EIR: to complete the Channel Deepening Project to the depth of -53 feet. The purpose for the proposed Project is to provide approximately 3.0 million cubic yards (mcy) of additional disposal capacity for the dredge material to complete the Channel Deepening Project, to beneficially reuse the dredge material in the Port, and to optimize disposal of the dredge material in accordance with the project objectives. In approving the proposed Project, the Board will need to make specific Findings of Fact regarding the significant environmental impacts of the proposed Project and mitigation measures to reduce or avoid such impacts, adopt a Statement of Overriding Considerations, and adopt a Mitigation Monitoring and Reporting Program (MMRP) to track mitigation. Unavoidable project impacts include exceedance of NO<sub>2</sub> 1-hour threshold during construction and cumulative effects for NO<sub>2</sub> and odor. Due to the proximity of the proposed project to existing Environmental Justice (EJ) communities, the Project could have a disproportionately high and adverse impact on minority and low-income populations for NO<sub>2</sub> emissions. Project benefits include: completion of the Channel Deepening Project to the approved depth of -53; improved water quality and eliminated potential for bioaccumulation through removal of existing contaminated sediments from areas that remain to be dredged; increased habitat value at the Cabrillo Shallow Water Habitat; improved safety for truck turning movements at the Northwest Slip; and creation of approximately 1,200 one-year-equivalent jobs in the five-county region, and provides annual state and local tax revenues that would reach approximately \$6.7 million.*

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15. (Continued)

**Recommendation:** Resolve that (1) the Board certify that the SEIR for the Channel Deepening Project (Transmittal 1) (a) has been completed in compliance with the CEQA of 1970 as amended, with the State CEQA Guidelines, and the Los Angeles City CEQA Guidelines; (b) was presented to the Board for review, and the Board considered the information contained in the Final SEIR prior to approving the Project; and (c) reflects the independent judgment and analysis of the Los Angeles Harbor Department (LAHD), and that all required procedures have been completed; (2) the attached Findings of Fact and Statement of Overriding Considerations (Transmittal 2) be adopted; (3) the Board find that in accordance with the information contained in the Final SEIR for the Channel Deepening Project, the proposed Project will have significant environmental effects during construction on Air Quality, Biological Resources, Land Use, Noise, and Cumulative Impacts, as defined by Public Resources Code Sections 21068, 21080, 21082.2, and 21083 and the State CEQA Guidelines Sections 15064, 15064.5, and 15382. The SEIR found no significant effects for Aesthetics and Visual Resources, Cultural Resources, Geological Resources, Ground Transportation and Circulation, Hazards and Hazardous Materials, Marine Transportation, Recreation, Utilities, Water Quality and Oceanography; (4) the Board find that in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed Project, which substantially lessen or avoid the significant adverse environmental impacts identified in the SEIR; (5) the Board find that in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, make infeasible certain mitigation measures and project alternatives identified in the Final SEIR. Impacts to Air Quality, Cumulative Impacts, and Environmental Justice (EJ) remain significant and unavoidable even after all feasible mitigation is adopted; (6) the Board find that all information added to the Final SEIR after public notice of the Draft SEIR availability for public review, but before certification, merely clarifies, amplifies, or makes insignificant modifications in an adequate SEIR, and recirculation is not necessary; (7) the

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**15. (Continued)**

Board find that in accordance with Public Resources Code Section 21081(b) and State CEQA Guidelines Section 15093, the benefits of the Project outweigh the significant and unavoidable environmental impacts of the Project, and adopt the Findings of Fact and Statement of Overriding Considerations (Transmittal 2); (8) the MMRP transmitted herewith (Transmittal 3) be adopted as required by Public Resources Code Section 21081.6. The MMRP is designed to ensure compliance with the mitigation measures adopted to mitigate or avoid significant effects on the environment, and identifies the responsibilities of the LAHD as lead agency, to monitor and verify Project compliance with those mitigation measures and conditions of Project approval; (9) the Project identified in the SEIR, including all feasible mitigation measures set forth in the SEIR with consideration of the Findings of Fact and Statement of Overriding Considerations, and the MMRP be approved; (10) the Engineering Division be directed to incorporate the mitigation measures, conditions, Environmental Compliance Plan requirements, mitigation monitoring/reporting plan, and Project environmental commitments into all Corps of Engineers Engineering Plans and Specifications for the proposed Project; (11) the Environmental Management Division be authorized to file the Notice of Determination (NOD) for the subject Project with the Los Angeles City Clerk; and (12) the proposed Recommendations and this Resolution No. \_\_\_\_\_ be adopted.

**Economic Development and Government Affairs**

**16. Re: RESOLUTION NO. \_\_\_\_\_ - APPLICATION FOR  
COMMERCIAL FISHING BLAST FREEZER FACILITY  
PROJECT FUNDING FROM THE U.S. ECONOMIC  
DEVELOPMENT ADMINISTRATION**

*SUMMARY: The Los Angeles Harbor Department (Harbor Department) is proposing to apply to the U.S. Economic Development Administration (EDA) for grant funding of a commercial fishing blast freezer facility project (blast freezer project). The project is projected to create an estimated 96 jobs (40 direct and 56 indirect and induced) through increased processing capacity and efficiencies. The blast freezer project will also contribute to the retention of the approximately 1,100*

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16. (Continued)

*commercial fishermen who supply wet fish to the processors. The EDA grant can fund up to 80 percent of the total project cost, which is an estimated \$5.3 million. Therefore, EDA grant funding could total \$4.2 million with the Harbor Department's capital construction cost being approximately \$1.1 million. The EDA funding amount will determine the Harbor Department's actual matching share of the project costs. Should EDA award a grant, staff will return to the Board of Harbor Commissioners (Board) for acceptance of the grant amount and related grant obligations. Operational and maintenance costs of the blast freezer project would be the responsibility of the facility users.*

**Recommendation:** Board resolve that (1) the Executive Director be authorized to apply for blast freezer project funding from the EDA; (2) include \$1.1 million, which represents the Harbor Department's cost share of the blast freezer project costs, in the fiscal year 2010/2011 Capital Improvement Program (CIP) and which is subject to change pending the EDA grant amount awarded; and (3) Resolution No. \_\_\_\_\_ be adopted.

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: **Federal Maritime Commission v. City of Los Angeles, et al.**, United States District Court Case No. 1:08-CV-01895-RJL, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.

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**CLOSED SESSION (Continued)**

4. Discussion of pending litigation entitled: 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, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.
5. Discussion of pending litigation entitled: City of Los Angeles v. Kinder Morgan, Inc., et al., Los Angeles Superior Court Case No. NC041463, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.
6. Discussion with legal counsel concerning significant exposure to litigation [two (2) potential cases], pursuant to subdivision (b)(1) of Section 54956.9 of the California Government Code.
7. Discussion of whether to initiate litigation [one (1) potential case], pursuant to subdivision (c) of Section 54956.9 of the California Government Code.
8. Instructions to negotiators relating to lease negotiations with San Pedro Waterfront, LLC concerning proposed amendment to Revocable Permit No. 03-04 and Permit No. 856, pursuant to Section 54956.8 of the California Government Code. Instructions to negotiators will concern price and terms of payment. The negotiator for San Pedro Waterfront, LLC will be Jayme Wilson. The negotiator for the Port of Los Angeles will be Kathryn McDermott.
9. Instructions to negotiators relating to lease negotiations with San Pedro Fish Markets concerning proposed amendment to Permit No. 387, pursuant to Section 54956.8 of the California Government Code. Instructions to negotiators will concern price and terms of payment. The negotiator for San Pedro Fish Markets will be Tom Amalfitano. The negotiator for the Port of Los Angeles will be Kathryn McDermott.