

DECEMBER 4, 2009

SPECIAL MEETING NOTICE

SUBJECT: SPECIAL MEETING OF THE LOS ANGELES BOARD OF HARBOR
COMMISSIONERS – THURSDAY, DECEMBER 10, 2009, AT 8:30 A.M.

The Los Angeles Board of Harbor Commissioners has called for special meeting
to be held on:

*Thursday, December 10, 2009, at 8:30 a.m.
Port of Los Angeles Administration Building
Board Hearing Room, 2nd Floor
425 S. Palos Verdes Street,
San Pedro, CA 90731*

The attached agenda specifies the business to be conducted at the special
meeting. NO OTHER BUSINESS WILL BE CONSIDERED.



ROSE M. DWORSHAK
Commission Secretary

**AGENDA OF THE SPECIAL MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
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**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. DISCUSSION

Draft L.A. Waterfront Implementation Plan

G. PRESENTATION

**Retirement of Joe DiMassa
Calendar Photo Contest
Eastview Little League**

H. APPROVAL OF MINUTES

Minutes of the special meetings of June 4, 2009 and August 13, 2009 for approval.

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I. BOARD REPORTS OF THE EXECUTIVE DIRECTOR

CONSENT ITEMS (1 - 4)

Commission Office

1. Re: RESOLUTION NO. _____ – APPROVAL OF THE BOARD OF HARBOR COMMISSIONERS 2010 REGULAR MEETING CALENDAR

Recommendation: Adoption of the subject Resolution approving the 2010 Board meeting calendar.

Homeland Security

2. Re: RESOLUTION NO. _____ - AWARD OF CONTRACT TO SCIENCE APPLICATIONS INTERNATIONAL CORPORATION FOR CLOSED CIRCUIT TELEVISION (CCTV), ACCESS CONTROL, AND NETWORKING HARDWARE AND SOFTWARE REPAIR AND MAINTENANCE

SUMMARY: The Homeland Security Division recommends the approval of a contract award to Science Applications International Corporation (SAIC), San Diego, California, to provide professional services to assist the City of Los Angeles Harbor Department (Harbor Department) with software and hardware maintenance and repair services for Closed Circuit Television (CCTV), access control, and networking systems. The scope of this agreement also includes system upgrades (hardware and software) that may be needed in order to enhance the system's performance or add to the system's overall capabilities.

The Harbor Department utilizes contractors for this work under two Engineering Division-managed agreements with SAIC and Adesta, with the three year SAIC agreement having already expired on November 1, 2009. The agreements' scope of work included installation as well as maintenance and repair of systems/equipment installed by each company. The current agreement with Adesta will end February 26, 2010. Adesta is precluded from performing maintenance on SAIC equipment due to warranty agreements; therefore, it is essential to put a new maintenance contract with another contractor in place as soon as possible.

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2. (Continued)

Recommendation: Board resolve to (1) find that the City requires assistance with the repair and maintenance of the Harbor Department's CCTV, access control, and networking systems; (2) find that in accordance with the City Charter Section 1022, work under the subject Agreement is temporary in nature and can be performed more feasibly by an independent consultant than by City employees; (3) approve a one-year Agreement with two, one-year renewal options, at a not-to-exceed amount of \$5,000,000 with SAIC for the maintenance and repair of the Harbor Department's CCTV, access control, and networking systems; (4) authorize the Executive Director to execute and the Board Secretary to attest to said Agreement for and on behalf of the Board; and (5) adopt Resolution No. _____ awarding an Agreement to SAIC for the services described in item 4 of the Recommendation section of this report.

Marketing

3. Re: RESOLUTION NO. _____ APPROVAL OF FIRST AMENDMENT FOR FOREIGN-TRADE ZONE GENERAL PURPOSE OPERATING AGREEMENT NO. 2346 BETWEEN THE CITY OF LOS ANGELES AND CITIZEN WATCH COMPANY OF AMERICA, INC., FTZ 202, SITE 7D

SUMMARY: The Los Angeles Harbor Department (Harbor Department), as the Foreign-Trade Zone (FTZ) grantee, establishes FTZ General Purpose Operating Agreements (Operating Agreements) with FTZ operators in order to enable the Harbor Department to oversee their FTZ operations. On September 15, 2004, the Board of Harbor Commissioners (Board) approved Operating Agreement No. 2346 with Citizen Watch Company of America, Inc. (Citizen) at FTZ 202, Site 7D, located at 1000 West 190th Street, Torrance, California 90502. The original term for this Operating Agreement began on January 1, 2005, and will expire on December 31, 2009, with three, five-year renewal options. The Harbor Department received a request from Citizen to exercise their renewal option to extend their Operating Agreement. This site includes 164,988 square feet of warehouse and office space. Citizen will be operating their warehouses under FTZ operation rules and the First Amendment will provide a term of five years with two five-year renewal options.

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3. (Continued)

Recommendation: Board resolve to (1) approve the subject First Amendment for Operating Agreement No. 2346 between the City of Los Angeles and Citizen; (2) authorize and direct the Board Secretary to transmit the proposed First Amendment to the City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles; (3) upon approval by the Board of Harbor Commissioners, authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment; and (4) adopt Resolution No. _____.

Environmental

4. Re: RESOLUTION NO. _____ - NATIONAL CLEAN DIESEL ASSISTANCE PROGRAM SUBRECIPIENT AGREEMENTS

SUMMARY: On March 19, 2009, the U.S. Environmental Protection Agency (EPA) released a Request for Applications (RFA) for the National Clean Diesel Assistance Program (Program), which is funded by the American Recovery and Reinvestment Act (ARRA) of 2009 through the Diesel Emissions Reduction Act. The Program offered \$156,000,000 of federal funding to be used towards diesel emission reduction projects, such as vehicle or engine replacements, repowers, retrofits, as well as idle reduction projects. On April 24, 2009, the City of Los Angeles Harbor Department (Harbor Department) submitted an application for \$6,100,000 of funding combined for its own projects and the projects of four tenants (subrecipients): SA Recycling, Ports America, Metropolitan Cruise Services, and Eagle Marine Services. On July 16, 2009, the EPA awarded nearly \$2,000,000 (\$117,500 for Harbor Department projects and \$1,874,250 for tenant projects) for projects under this application. On August 13, 2009, the Harbor Department through its Board of Harbor Commissioners (Board) authorized the execution of the Cooperative Agreement with EPA to accept and approve funding for these projects. Staff is recommending approval of Subrecipient Agreements with the four Port of Los Angeles (Port) tenants, which is a grant requirement that will enable the Harbor Department to request reimbursement of funds from EPA for the equipment projects.

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4. (Continued)

Recommendation: Board resolve to (1) approve the National Clean Diesel Assistance Program Subrecipient Agreements among the Harbor Department and SA Recycling, Ports America, Metropolitan Cruise Services, and Eagle Marine Services; (2) authorize the Executive Director to execute and the Board Secretary to attest to said Subrecipient Agreements for and on behalf of the Board; and (3) adopt Resolution No. _____.

REGULAR ITEMS (5 - 9)

Environmental

**5. 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. At the Board's request, this item was held over from the October 6, and November 19, 2009, Board meetings to discuss the amount of payment in light of reduced container cargo volumes at the Port and to provide updates on the status of the formation of TraPac Interim Entity and funding of the Air Filtration systems.

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5. (Continued)

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.

**6. Re: RESOLUTION NO. _____ - CHINA SHIPPING PORT
COMMUNITY AESTHETIC MITIGATION PROGRAM – SAN
PEDRO PROJECTS**

SUMMARY: On June 16, 2009, the Port Community Advisory Committee (PCAC) recommended funding for eleven projects, five in San Pedro and six in Wilmington which would fully expend the Community Aesthetic Mitigation fund that was established in the China Shipping Settlement Agreement Amended Stipulated Judgment (ASJ). The Wilmington projects have already been approved by the Board of Harbor Commissioners (Board). In order of PCAC priority, the five San Pedro

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6. (Continued)

Projects which are being considered today are: 1) Off-Port Impacts Nexus Study (\$5,000,000), 2) Hey Rookie Swimming Pool Restoration (\$7,000,000), 3) Northwest Harbor Beautification Project business removals/relocations, 4) Front Street/Harbor Boulevard Landscaping Improvements Project along Front Street and Pacific Avenue (~\$2,000,000) and 5) the Angel's Gate Park Renovation Project (\$1,000,000). The City of Los Angeles Harbor Department (Harbor Department) staff requests the Board approve in concept and allocate \$6,966,012, which is all of the available funding, for the Hey Rookie Swimming Pool. If not all of the \$6,966,012 is needed to construct the project, Harbor Department staff recommends allocating any remaining funds to elements of the Front Street/Harbor Boulevard Landscaping Improvements Project. Harbor Department staff is not recommending funding of the Off-Port Impacts Nexus Study, Northwest Harbor Beautification Project, or the Angel's Gate Park Renovation Project. Harbor Department staff will return to the Board for approval of each project funding mechanism once the applicant agreement or construction documents are finalized.

Recommendation: Board resolve to (1) approve in concept the Hey Rookie Pool Swimming Pool project recommended by PCAC and direct Harbor Department staff to prepare a funding agreement with the Fort MacArthur Museum Association for future Board approval to implement the project for up to \$6,966,012¹; (2) approve in concept the Front Street/Harbor Boulevard Landscaping Improvements Project to be considered as an alternate should additional San Pedro aesthetic mitigation funding become available; (3) deny the Off-Port Impact Nexus Study, the Northwest Harbor Beautification, and Angel's Gate Park Projects; (4) allocate \$6,966,012 from the Community Aesthetic Mitigation Fund (Account 21952, Center 7000, Program 000) for Hey Rookie Swimming Pool; and (5) adopt Resolution No._____.

¹ Staff will return to the Board for approval of each project funding agreement once the applicant agreement or construction documents are finalized.

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7. Re: RESOLUTION NO. _____ - AGREEMENT WITH MISSION INFRASTRUCTURE GROUP TO PROVIDE "INTERIM ENTITY" SERVICES IN ACCORDANCE WITH MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LOS ANGELES AND THE APPELLANTS OF THE TRAPAC ENVIRONMENTAL IMPACT REPORT

SUMMARY: On April 3, 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 (Appellants). The MOU provided for the establishment of the Community Mitigation Trust Fund (Trust Fund) to be funded upon approval of specified Port development projects, for the Trust Fund to be operated by a non-profit entity established for the purpose of overseeing grants from the fund, and for the City of Los Angeles Harbor Department (Harbor Department) to fund an "interim entity" agreed upon by the parties to establish the non-profit entity and implement various aspects of the MOU. The Appellants have recommended to Harbor Department staff, and staff concurs with the recommendation to enter into a one-year agreement with Mission Infrastructure Group to provide the interim entity services in an amount not-to-exceed \$450,000.

Recommendation: Board resolve to (1) find that in accordance with the Los Angeles City Charter Section 1022, the work can be performed more feasibly by independent contractors than by City employees; (2) consent to Appellants' selection of Mission Infrastructure Group as the interim entity in accordance with the TraPac MOU; (3) approve, substantially as to form, the Agreement with Mission Infrastructure Group to provide "interim entity" services in accordance with the MOU between the City and the Appellants for a not-to-exceed amount of \$450,00 and for a term of one year; (4) authorize the Executive Director to execute and the Board Secretary to attest to said Agreement; and (5) adopt Resolution No. _____.

8. Re: RESOLUTION NO. _____ - MEMORANDUM OF AGREEMENT WITH TRAPAC APPELLANTS AND SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT TO INSTALL AIR FILTRATION SYSTEMS IN LOCAL SCHOOLS

SUMMARY: On April 3, 2008, the Board of Harbor Commissioners (Board) approved a Memorandum of Understanding (TraPac MOU) between the City of Los Angeles (City) and the Appellants of the TraPac Environmental Impact Report (Appellants). The TraPac MOU provided for the establishment of the Community Mitigation Trust Fund (Trust Fund) to be

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8. (Continued)

funded upon construction of specified Port development projects. Furthermore, the TraPac MOU requires the City to provide \$6,000,000 for the installation and maintenance of air filtration systems and/or heating ventilation air conditioning (HVAC) air purifiers in schools in the communities of Wilmington and San Pedro, California, which are impacted by the operations of the TraPac Berths 136-147 Container Terminal. At the request of the City and Appellants, South Coast Air Quality Management District (SCAQMD) has consented to implement and administer, on behalf of the City and Appellants, the air filtration program required by the TraPac MOU. The City of Los Angeles Harbor Department (Harbor Department) staff recommends approval of the proposed Memorandum of Agreement (MOA) between the City, Appellants, and SCAQMD which sets forth the terms of agreement regarding this program.

Recommendation: Board to resolve to (1) find that in accordance with the Los Angeles City Charter Section 1022, the work can be performed more feasibly by independent contractors than by City employees; (2) approve, in substantial form, the MOA with Appellants and SCAQMD to install and maintain air filtration systems in Wilmington and San Pedro schools in accordance with the TraPac MOU between the City and the Appellants in an amount not-to- exceed \$6,000,000 and a term not to exceed five years; (3) authorize the Executive Director to execute and the Board Secretary to attest to said agreement and forward to City Council pursuant to Los Angeles Charter Section 373; and (4) adopt Resolution No. _____.

Marketing

**9. Re: RESOLUTION NO. _____ LOS ANGELES HARBOR
DEPARTMENT CALENDAR YEAR 2010 CONTAINER
CUSTOMER INITIATIVES**

SUMMARY: In 2009, the Board of Harbor Commissioners (Board) approved various incentive programs to maintain the Los Angeles Harbor Department's (Harbor Department's) competitive position in the marketplace, to assist our container terminal customers (customers) during the economic crisis, and to help them maintain their current market share. Customers consist of APM Terminals, China Shipping Holding, Eagle Marine Services, Evergreen America, TraPac, Yang Ming Line, and Yusen Terminals, Inc. Although there are signs of economic recovery, customers continue to suffer from low cargo volumes and reduced revenues. At the same time, there is concern that container cargo

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9. (Continued)

may be diverted to other ports as competition to retain volume continues. For Calendar Year (CY) 2010 the Harbor Department staff has identified (i), an economic relief program that will provide each customer with a one-time credit in the amount of 6 percent of revenue paid in Fiscal Year (FY) 2007/2008, and (ii) two additional programs aimed at addressing commercial and competitive concerns. These programs can be implemented without compromising the operational and capital improvement budgets. Harbor Department staff recommends a one-time container terminal rent credit, an empty container discount, and a reduction in the trans-shipment rate.

Total Harbor Department operating revenues impacted, if all of the programs recommended are approved, are approximately \$25,773,029 with \$22,748,029 affecting the revenues for FY 2009/2010 and the remaining \$3,025,000 potentially reducing projected revenues in FY 2010/2011.

Recommendation: Board resolve to (1) approve the one-time container terminal rent credit, empty container discount, and trans-shipment reduction as described in this Board report and instruct staff to prepare individual permits as required to implement; and (2) adopt Resolution No. _____.

J. CLOSED SESSION

1. 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

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Subdivision (a) of Government Code Section 54956.9)

City of Riverside v. City of Los Angeles, et al., Orange County Superior Court Case No. 30-2009-00123216

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J. CLOSED SESSION (Continued)

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

Jesse Marquez v. City of Los Angeles, et al., Los Angeles Superior Court Case No. BS120716

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REVISED SUPPLEMENTAL PAGE

Clean Truck Program

10. Re: TEMPORARY ORDER NO. _____ AND PERMANENT ORDER NO. _____ AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION 20 – GENERAL RULES AND REGULATIONS – DRAYAGE TRUCKS

SUMMARY: *The proposed tariff amendment would allow drayage trucks that would otherwise be banned January 1, 2010, to continue to operate at Port terminals for a limited time if they meet certain requirements. To qualify, truck owners must have the existing truck registered by December 30, 2009 in the Port and state Drayage Truck Registry, and submitted to the California Air Resources Board (ARB) by December 31, 2009 a valid and binding purchase order for a replacement truck or retrofit to be purchased with private funds. The amendments were designed to be consistent with an ARB drayage truck rule advisory that provided the same extension from ARB's statewide rule to trucks that satisfy these conditions operating at ports or rail yards anywhere in the state.*

Recommendation: Board resolve to (1) approve an amendment to modify Items 2000 and 2015 in Port of Los Angeles Tariff No. 4, Section 20, Clean Air Action Plan – General Rules and Regulations, subject to 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 (Transmittal 2); (2) adopt Temporary Order No. 09-_____ and Permanent Order No. 09-_____, to amend items 2000 and 2015 in Port of Los Angeles Tariff No. 4, Section 20, Clean Air Action Plan - General Rules and Regulations (Transmittals 3 and 4); (3) authorize the Board Secretary to certify to the adoption of the Temporary 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 proposed Ordinance (Transmittal 5) approving and authorizing the amendment to Tariff No. 4 pursuant to City Charter 653(a); (5) authorize the Board Secretary to execute the Temporary Order, Permanent 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's website as regulated by the Federal Maritime Commission; and (6) adopt the Resolution No. 09-_____.