

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
THURSDAY, APRIL 5, 2007, AT 6:00 P.M.
BOARD HEARING ROOM, SECOND FLOOR
425 S. PALOS VERDES STREET
SAN PEDRO, CA 90731**

**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. Intermodal Container Transfer Facility Modernization Project: Union Pacific Application for Discretionary Project Approval**

D. REPORTS OF COMMISSIONERS

E. BOARD COMMITTEE REPORTS

F. PRESENTATIONS

- 1. Technology Advancement Program - Environmental**
- 2. Clean Air Action Plan Program Update - Environmental**
- 3. San Pedro Local Cruise Industry Study**

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G. REPORTS OF THE EXECUTIVE DIRECTOR

Consent Items (1-8)

Planning and Research

- 1. Re: APPROVAL OF CHANGES TO THE MEMBERSHIP OF
THE PORT OF LOS ANGELES COMMUNITY ADVISORY
COMMITTEE**

***SUMMARY: The Board of Harbor Commissioners is being asked
to approve changes in membership to the Port of Los Angeles
Community Advisory Committee.***

**Recommendation: Board resolve that the following
appointments to PCAC be approved: (1) Pat Nave, as the
Northwest San Pedro Neighborhood Council voting member; (2)
Philip Nicolay, as the Northwest San Pedro Neighborhood
Council alternate member; and (3) Carrie Scoville, as the Central
San Pedro Neighborhood Council alternate member.**

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Marketing

2. Re: **PROPOSED FOREIGN-TRADE ZONE (FTZ)
OPERATING AGREEMENT BETWEEN THE CITY OF
LOS ANGELES AND NIPPON EXPRESS U.S.A. INC.
(NIPPON), SITE 14-A**

SUMMARY: In May 2004, the Foreign Trade Zone (FTZ) Board designated FTZ 202, Site 14 in San Pedro, California. Nippon has requested the activation of their warehouses located at 300 Westmont Avenue in San Pedro as a general purpose FTZ warehouse. The proposed facility site includes approximately 350,000 square feet of warehouse and office space on the 88-acre parcel. It is required that the grantee have an operating agreement with the warehouse operator to oversee their operation and maintain the FTZ status. The proposed FTZ operating agreement is for a five (5) year term with three (3), five-year renewal options with Nippon to operate FTZ 202, Site 14-A in San Pedro, California.

Recommendation: Board resolve that (1) the subject Foreign Trade Zone (FTZ) operating agreement with Nippon, FTZ 202, Site 14-A be approved; (2) the Board Secretary be 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; and (3) the Executive Director and the Board Secretary be authorized to execute and attest to the proposed operating agreement upon approval by the City Council.

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Real Estate

**3. Re: PROPOSED ORDER RESETTING COMPENSATION TO
PERMIT 692 GRANTED TO YUSEN TERMINALS, INC.**

SUMMARY: Permit 692 grants Yusen Terminals, Inc. (YTI) preferential use of the container terminal at Berths 212-224, measuring 191.08 acres and approximately 6300 l.f. of wharf. Permit 692 is a 25-year permit expiring on September 20, 2016, with one ten-year option, and a provision for the renegotiation of compensation for each five-year period. It is now necessary to reset compensation for the five-year period of October 1, 2006 to September 30, 2011.

Recommendation: Adoption of the Order resetting compensation to Permit 692 with Yusen Terminals, Inc., based on the terms and conditions as set forth in the Board report.

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4. Re: **PROPOSED ASSUMPTION AND NOVATION AGREEMENT SUBSTITUTING A PARTY UNDER AGREEMENT NO. 1003 FROM CHANSE ENERGY CORPORATION TO WARREN RESOURCES OF CALIFORNIA, INC. AND WARREN E & P, INC.**

SUMMARY: In October 1974, the Board approved Agreement No. 1003 between the City of Los Angeles and Sun Exploration and Production Company, which permitted secondary oil recovery operations (injection of water at high pressure into oil recovery wells to assist in collecting and extracting remaining product after the initial oil recovery process is completed), within the Classification Yard in Wilmington (see attached aerial photos) for a term of 35 years commencing May 16, 1975. Agreement No. 1003 was subsequently assigned to Chanse Energy Corporation (Chanse) on January 1, 1990. An assignment of Agreement No. 1003 to Warren Resources of California, Inc. and Warren E & P, Inc. (Warren) is now being requested under an Assumption and Novation Agreement Substituting a Party, which is a type of substituted contract that has the effect of adding a party who was not a party to the original contract. The new party agrees to assume and undertake the obligations of the existing contract.

Recommendation: Board resolve that (1) the Order approving the Assignment of Agreement No. 1003 to Warren Resources of California, Inc. and Warren E & P, Inc. be adopted; (2) the Assumption and Novation Agreement Substituting a Party and the Corporate Guaranty Agreement from Warren's parent company, Warren Resources, Inc. be approved; (3) the Board Secretary be directed to transmit the Order, Assumption and Novation Agreement Substituting a Party, and the Corporate Guaranty Agreement to the City Council for approval, pursuant to Charter Section 606; and (4) the Executive Director and Board Secretary be authorized to execute the proposed Assumption and Novation Agreement Substituting a Party upon approval by the City Council.

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**5. Re: PROPOSED ORDER SETTING COMPENSATION
UNDER PERMIT NO. 741 WITH MOBIL PACIFIC
PIPELINE COMPANY**

SUMMARY: Under the terms of Permit No. 741, Mobil Pacific Pipeline Company (MPPC) is granted the right to use Port of Los Angeles (Port) property in various locations in Wilmington for a term of 20 years commencing January 11, 1993, for construction, maintenance, and operation of subsurface pipelines for delivery of crude oil to and from various points (as shown on the attached aerial photos) and for purposes incidental thereto. Compensation is being reset for the five-year periods of January 11, 1998 through January 10, 2003, and January 11, 2003 through January 10, 2008.

Recommendation: Adoption of Order setting compensation under Permit No. 741 with Mobil Pacific Pipeline Company, for the five-year period of January 11, 1998 through January 10, 2003, and for the five-year period of January 11, 2003 through January 10, 2008, as set forth in the Board report, pursuant to a First Amendment effective September 1, 1999, the permit premises were reduced by 21,859 square feet (from 26,134 square feet to 4,275 square feet). As a result, the annual compensation was reduced from \$16,987 to \$2,779.

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**6. Re: PROPOSED ORDER SETTING COMPENSATION
UNDER PERMIT NO. 705 WITH BP WEST COAST
PRODUCTS LLC AND ARCO TERMINAL SERVICES
CORPORATION**

SUMMARY: Under the terms of Permit No. 705, BP West Coast Products LLC and ARCO Terminal Services Corporation (BP and ARCO) are granted the authority to use Port of Los Angeles (Port) property east of the Dominguez Channel, north and south of Sepulveda Boulevard, and at the intersection of Grant Street and Leeds Avenue (west of the Dominguez Channel, north of East Anaheim Street) for surface and subsurface pipeline right-of-way purposes as shown on the attached aerial photos. The purpose of this request is to set the compensation for the final five-year period commencing May 21, 2006, and ending May 20, 2011.

Recommendation: Adoption of the Order setting compensation under Permit No. 705 with BP West Coast Products LLC and ARCO Terminal Services Corporation at \$30,802 per year for the period commencing May 21, 2006, and ending May 20, 2011, which represents a yearly increase of \$9,241 over BP & ARCO's current compensation of \$21,561 per year.

**7. Re: PROPOSED ORDER SETTING COMPENSATION
UNDER AGREEMENT NO. 2069 WITH CALIFORNIA
CARTAGE COMPANY, INC.**

SUMMARY: Agreement No. 2069 grants California Cartage Company, Inc. (CCC) the use of Port property east of the Dominguez Channel, between Pacific Coast Highway and Sepulveda Boulevard (see attached aerial site photos), for the operation and maintenance of a container freight station, warehouses, truck/chassis container parking area, and purposes incidental thereto. Agreement No. 2069 has an effective date of May 1, 1998, with a term of 10 years. It is necessary to set the compensation for the five-year period beginning May 1, 2003.

Recommendation: Adoption of the Order setting compensation under Agreement No. 2069 with California Cartage Company (CCC), Inc. at \$255,806 per month for the period commencing May 1, 2003 and ending April 30, 2008, which represents a monthly increase of \$34,966 over CCC's current compensation of \$220,840 per month.

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- 8. Re: PROPOSED REVOCABLE PERMIT NO. 06-04 WITH CATALINA FREIGHT LINE, INC. TO SUCCEED PERMIT NO. 401**

SUMMARY: It is proposed that Revocable Permit 06-04 be issued to Catalina Freight Line, Inc., succeeding Permit No. 401 previously granted to Jack Fennie, dba Catalina Freight Line. This Revocable Permit will allow the use of Harbor Department land and water area for the continued operation of a freight service to Catalina Island.

Recommendation: Board resolve that the Executive Director be authorized to execute Revocable Permit 06-04 with Catalina Freight Line, Inc. based on the terms and conditions as set forth in the Board report.

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Regular Item (9-14)

Marketing

9. Re: **PROPOSED CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) CUSTOMER GENERATION INTERCONNECTION AGREEMENT RELATIVE TO THE PORT'S ALTERNATIVE MARITIME POWER (AMP) INITIATIVE AT BERTH 214**

SUMMARY: The AMP initiative allows vessels to be powered by shore-supplied electrical power while at berth. During the synchronized transfer of electrical power from shore-to-ship, the vessel will be connected in parallel to the LADWP's grid for a short period of time, which will allow the vessel to shut off its auxiliary power generators while at berth. LADWP requires those co-generating electricity sign a Customer Generation Interconnection Agreement. The vessel, not the Port, is the actual co-generator in the context of the AMP initiative. In order to advance this initiative, the business decision has been made to step into the shoes of the vessel, and to sign the subject agreement for vessels connected to shore power at Berth 214. By signing the agreement, the Port agrees to be bound by the terms and conditions of the subject agreement, including its indemnification clause (Indemnification 13.1). Where the proposed LADWP Customer Generation Interconnection Agreement is for a three (3) year term from the effective date of execution, it is in reality a temporary solution allowing vessels to connect to shore power without delay at Berth 214. The LADWP and Port Electrification Committee will deal with the overall electrification of the Port. In order to provide the same benefit to all Port AMP users as would be enjoyed at Berth 214, the Port will develop a "Global Interconnection Agreement" that once executed will replace the Customer Generation Interconnection Agreement.

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9. (Continued)

Recommendation: Board resolve that (1) the proposed LADWP Customer Generation Interconnection Agreement for vessels connecting to shore power at Berth 214 be approved; and (2) the Executive Director and Board Secretary be authorized to execute and attest to the LADWP Customer Generation Interconnection Agreement for and on behalf of the Board.

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- 10. Re: PROPOSED AGREEMENT WITH NIPPON YUSEN KABUSHIKI KAISHA (NYK) IN CONNECTION WITH THE ALTERNATIVE MARITIME POWER (AMP) INITIATIVE AND TO REAUTHORIZE REIMBURSEMENT TO NYK FOR THE PURCHASE AND INSTALLATION OF EQUIPMENT TO USE SHORE-SIDE ELECTRICAL POWER**

SUMMARY: The AMP initiative allows vessels to be powered by shore-supplied electrical power while at berth. The Port of Los Angeles (Port) is supporting the initiative through the implementation of necessary infrastructure. On December 15, 2004, the prior Board of Harbor Commissioners approved the Port's AMP Container Vessel Policy Resolution No. 6324. On January 12, 2005, the Board subsequently approved reimbursement to NYK in the amount of \$810,000. Nippon Yusen Kabushiki Kaisha (NYK) has developed an integrated onboard electrical system for connecting into shore-side power and implemented the system on its new vessel the M/V NYK Atlas. Shore-side infrastructure enabling vessels to connect to shore power was completed on January 31, 2006. Staff is now recommending reauthorization of this activity and approval of the subject Agreement to allow reimbursement to NYK, thereby honoring the prior Board's action.

Recommendation: Board resolve that (1) the attached subject Agreement between the City of Los Angeles and NYK be approved; (2) the Executive Director be authorized to issue payment to NYK in an amount not to exceed \$810,000 from Account No. 54510, Center No. 1186, Program No. 636; and (3) the Executive Director and Board Secretary be authorized to execute and attest to the subject Agreement for and on behalf of the Board.

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**11. Re: PORT OF LOS ANGELES ALTERNATIVE MARITIME
POWER (AMP) CONTAINER AND CRUISE VESSEL
RESOLUTION NOS. 6324 AND 6356**

SUMMARY: Alternative Maritime Power (AMP) is an air emission reduction technology that allows vessels to be powered by shore supplied electrical power while at berth rather than running their auxiliary diesel engines. The Port of Los Angeles (Port) is supporting this initiative through implementation of necessary shore infrastructure. The prior Board of Harbor Commissioners adopted container and cruise vessel resolutions which offered container and cruise vessel operators that are customers of the Port a financial incentive up to \$810,000 towards costs to install the necessary AMP equipment on one vessel. Adoption of the San Pedro Bay Clean Air Action Plan has new implementation strategies for AMP, which does not include incentives for ocean-going vessels measures. Staff is now requesting the Board to rescind Resolution Nos. 6324 and 6356, which offered a financial incentive to vessel operators.

Recommendation: Board resolve that Resolution No. 6324 – Alternative Maritime Power (AMP) – Container Vessels and Resolution No. 6356 – Alternative Maritime Power (AMP) – Cruise Vessels be rescinded.

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Real Estate

12. Re: PROPOSED PERMIT NO. 878 WITH SAN PEDRO BAIT COMPANY, INC. FOR THE OPERATION OF A LIVE BAIT BARGE

SUMMARY: Live bait was previously provided to commercial, charter, and private boats by two operators under revocable permits which were terminated on September 11, 2006. Port staff determined that the best method of selecting an operator who could provide the necessary services and institute measures to protect water quality and wildlife in the harbor was through a Request for Proposals (RFP). This manner of selecting a tenant is in accordance with the Port of Los Angeles' Leasing Policy whereby Port properties are made available on fair and reasonable terms without unjust discrimination. An RFP was released on January 24, 2007, for the operation of a live bait barge. The San Pedro Bait Company, Inc. was selected through this process, and it is proposed that a five-year permit be granted.

Recommendation: Adoption of the Order approving the Permit No. 878 with San Pedro Bait Company, Inc. based on the terms and conditions as set forth in the Board report.

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**13. Re: PROPOSED THREE-YEAR LEASE WITH TRUST DEEDS
TO GOLD, INC. FOR OFFICE SPACE FOR THE SAN
PEDRO WATERFRONT INFORMATION CENTER**

SUMMARY: As a part of the community outreach component of the Los Angeles Waterfront, the Port of Los Angeles requests authorization to enter into a three-year lease with Trust Deeds to Gold, Inc. to occupy the San Pedro Waterfront Information Center located at 600 South Pacific Avenue in San Pedro. The lease will commence upon completion of the tenant improvements following Board approval and end three years from the commencement date. The San Pedro Waterfront Information Center is comparable to the Wilmington Waterfront Information Center.

Recommendation: Board resolve that the Executive Director be authorized to execute the three-year lease with Trust Deeds to Gold, Inc. for office space at 600 South Pacific Avenue, Suite 101A, in San Pedro, California, to provide 800 square feet of office space for the San Pedro Waterfront Information Center. The proposed lease will be effective the date of approval by the Board of Harbor Commissioners, and rent will commence on or about May 1, 2007, after tenant improvements are completed. The monthly rent is set at \$1,320, based on a rate of \$1.65 per square foot per month. Rent adjustments are not to exceed six percent (6%) annually.

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City Attorney

- 14. 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 name of the law firm retained as outside counsel in the captioned matter 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 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.

(Board report dated March 16, 2007 be withdrawn.)

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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 of pending litigation entitled: City of Los Angeles v. San Pedro Boat Works, Inc., et al., United States District Court Case No. CV-02-7986 MP (JWJx), pursuant to subdivision (a) of Section 54956.9 of the California Government Code and retention of counsel.**
- 4. 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.**