

September 22, 2010

SPECIAL MEETING NOTICE

SUBJECT: SPECIAL MEETING OF THE LOS ANGELES BOARD OF HARBOR COMMISSIONERS – MONDAY, SEPTEMBER 27, 2010 AT *12:00 P.M.

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

*Monday, September 27, 2010 at *12:00 p.m.
Port of Los Angeles Administration Building
Board Hearing Room, 2nd Floor
425 S. Palos Verdes Street
San Pedro, CA 90731*

** Closed session to begin at 12:00 p.m. Open session is anticipated to begin at 1:00 p.m. or soon thereafter.*

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
MONDAY, SEPTEMBER 27, 2010 AT *12:00 P.M.
PORT OF LOS ANGELES ADMINISTRATION BUILDING
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**BOARD OF HARBOR COMMISSIONERS
President Cindy Miscikowski
Commissioner Kaylynn L. Kim
Commissioner Douglas P. Krause**

**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. 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 – 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

**3. 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: one case.

C. COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

D. EXECUTIVE DIRECTOR REMARKS

E. REPORTS OF THE COMMISSIONERS

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F. BOARD COMMITTEE REPORTS

G. APPROVAL OF MINUTES

Minutes of the Regular Meeting of June 3, 2010 and Special Meeting of June 17, 2010 for approval.

H. BOARD REPORTS OF THE EXECUTIVE DIRECTOR

CONSENT ITEMS (1 - 8)

Environmental

1. Re: RESOLUTION NO. _____ - CHINA SHIPPING PORT COMMUNITY AESTHETIC MITIGATION PROJECT-AGREEMENT WITH THE ROBERT F. KENNEDY INSTITUTE OF COMMUNITY AND FAMILY MEDICINE TO FUND THE LOS ANGELES PORT PUBLIC HEALTH PROGRAM AT BANNING'S LANDING

SUMMARY: In July 2009, the Los Angeles Board of Harbor Commissioners (Board) approved and allocated China Shipping Community Aesthetic Mitigation funding to the Robert F. Kennedy Institute of Community and Family Medicine (Wilmington, CA) for the Los Angeles Port Public Health Program (Project). Staff recommends that the Board approve the Agreement between the City of Los Angeles Harbor Department (Harbor Department) and the Robert F. Kennedy Institute of Community and Family Medicine (RFK Institute) in order to fund the Project at Banning's Landing for a not-to-exceed amount of \$1,000,000 and a term of five years.

Recommendation: Board resolve to (1) approve the Agreement with the Robert F. Kennedy Institute of Community and Family Medicine substantially as to form, for the not-to-exceed amount of \$1,000,000 and a term of five years; (2) direct the Board Secretary to transmit said Agreement to the Los Angeles City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles and Section 10.5(a) of the Los Angeles Administrative Code; (3) upon approval by the City Council, authorize the Executive Director to execute and the Board Secretary to attest to said Agreement, for and on behalf of the Board; and (4) adopt Resolution No. _____.

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Human Resources

2. Re: RESOLUTION NO. _____ - PROPOSED FIRST AMENDMENT TO AGREEMENT NO. 2621 BETWEEN THE CITY OF LOS ANGELES AND WESTERN MEDICAL GROUP, INC., FOR OCCUPATIONAL MEDICAL SERVICES

SUMMARY: *Western Medical Group, Inc., Torrance, California, is currently under contract with the City of Los Angeles Harbor Department (Harbor Department) to provide professional occupational medical services, including pre-employment physical examinations, first aid treatment, and federally mandated drug testing. Agreement No. 2621 is for a three year term and set to expire February 19, 2011. The First Amendment would increase the total contract amount by \$37,800 from \$120,000 to \$157,800. The additional funds will be used to pay for an increased number of Port Police medical examinations and hiring hall employee pre-employment physical examinations that were not anticipated in 2008 when the Board of Harbor Commissioners (Board) originally approved this Agreement. Board approval is required as it is an amendment to a Board approved contract.*

Recommendation: Board resolve to (1) find that in accordance with City Charter Section 1022, the services required can be performed more feasibly by an independent contractor than by City employees; (2) approve the First Amendment to Agreement No. 2621 with Western Medical Group, Inc. to increase funding by \$37,800, for a total not-to-exceed contract amount of \$157,800; (3) authorize the Executive Director to execute and the Board Secretary attest to the First Amendment to Agreement No. 2621; and (4) adopt Resolution No. _____.

Marketing

3. Re: RESOLUTION NO. _____ - APPROVAL OF FIRST AMENDMENT FOR FOREIGN-TRADE ZONE DEVELOPER AGREEMENT NO. 2401 BETWEEN THE CITY OF LOS ANGELES AND 11850 RIVERSIDE LLC., FTZ 202, SITE 20

SUMMARY: *The Los Angeles Harbor Department (Harbor Department), as the Foreign-Trade Zone (FTZ) grantee, establishes FTZ Developer Agreements (Developer Agreements) with FTZ developers in order to enable the Harbor Department to oversee their FTZ developments. On April 27, 2005, the Board of Harbor Commissioners (Board) approved Developer Agreement No. 2401 with 11850 Riverside LLC., (Riverside) at FTZ 202, Site 20, located in Mira Loma, California. The original term for this Developer Agreement began on November 1, 2005, and expires on*

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3. (Continued)

October 31, 2010, with three, five-year renewal options. The Harbor Department received a request from Riverside to maintain FTZ status and exercise first renewal option of Site 20. The proposed First Amendment will provide a term of five years with two, five-year renewal options.

Recommendation: Board resolve to (1)approve the subject First Amendment for Developer Agreement No. 2401 between the City of Los Angeles and Riverside; (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 and Section 10.5(a) of the Los Angeles Administrative Code; (3) upon approval by the Board, authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment; and (4) adopt Resolution No. _____.

4. Re: TEMPORARY ORDER NO. _____ - AMENDING PORT OF LOS ANGELES TARIFF NO.4, SECTION FIVE, WHARFAGE ITEM NOS. 550-097 AND 550-098, ALLOWING FOR THE WHARFAGE REDUCTION OF 15 PERCENT ON ZERO EMISSION VEHICLES

PERMANENT ORDER NO. _____ - AMENDING PORT OF LOS ANGELES TARIFF NO.4, SECTION FIVE, WHARFAGE ITEM NOS. 550-097 AND 550-098, ALLOWING FOR THE WHARFAGE REDUCTION OF 15 PERCENT ON ZERO EMISSION VEHICLES

SUMMARY: Automobile imports have been an important part of the business model at the Port of Los Angeles (Port) for more than 40 years. During this time, traditional gasoline and diesel-powered vehicles have been the major types of vehicles handled at the Port. In early 2010, the Port joined forces with the Office of Mayor Antonio Villaraigosa (Mayor's office) and other City of Los Angeles (City) offices to develop an incentive that would attract a new Chinese automobile manufacture, BYD, to locate their North American headquarters in the City. In addition to seeking a new headquarters location, BYD plans to import Battery Electric Vehicles (EV) from China. As part of a number of attractive incentives offered by the City, the Port proposed to create a "ZERO Emission Vehicle Tariff Measure" that will provide a 15 percent reduction on the wharfage rate for EV. This "ZERO Emission Tariff Measure" will be the first of its kind in the maritime industry and would be available to any automobile manufacturer who plans to import EV. These types of vehicles are consistent with the

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4. (Continued)

Port's overall sustainability model and our strategic objective in promoting the usage of alternative fuel vehicles. Staff is recommending the Board of Harbor Commissioners (Board) approve a new EV rate in Port Tariff No. 4 (Tariff).

Recommendation: Board resolve to (1) approve the Amendment to the Tariff, Item Nos. 550-097 and 550-098 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; (2) adopt Temporary Order No. _____ and Permanent Order No. _____ amending Port of Los Angeles Tariff No. 4, Section five "Wharfage"; (3) authorize the Board Secretary to certify the adoption of the Temporary Order by the Board and shall cause the same to be published once in a daily newspaper, printed, and published in the City, 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 the Ordinance approving and authorizing the amendments to the Tariff pursuant to City Charter 653(a); and (5) authorize the Board Secretary to execute the Temporary Order, Permanent Order, and the Ordinance amending the Tariff as stated above, and upon its publication, transmit the Orders and Ordinances to the Chief Wharfinger for implementation and posting to the Los Angeles Harbor Department's (Harbor Department) website as regulated by the Federal Maritime Commission.

Planning and Economic Development

5. Re: RESOLUTION NO. _____ - ISSUANCE OF A LEVEL I COASTAL DEVELOPMENT PERMIT (NO. 10-06) TO CHEVRON PIPELINE COMPANY FOR THE REMOVAL OF AN OUT OF SERVICE PIPELINE AT FRIES AVENUE NEAR PIER A STREET

SUMMARY: Chevron Pipeline Company (Chevron) is proposing to remove and dispose of approximately 100 feet of a six-inch pipeline at Fries Avenue near Pier A Street, to accommodate construction of the South Wilmington Grade Separation (SWGS) Project. Staff is recommending that the Board of Harbor Commissioners (Board) approve Coastal Development Permit (CDP) No. 10-06, a Level I, non-appealable permit for the proposed project.

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5. (Continued)

Recommendation: Board resolve to (1) find that the proposed project conforms with the Port Master Plan and the California Coastal Act of 1976, as amended, and find that this project will have no significant adverse environmental impacts as provided in the California Environmental Quality Act (CEQA); (2) authorize the Executive Director to approve the issuance of CDP No. 10-06, consistent with the project description listed on Application for Discretionary Project No. 100422-042; and (3) adopt Resolution No. _____.

Real Estate

6. Re: RESOLUTION NO. _____ - PROPOSED FIFTH AMENDMENT TO PERMIT NO. 733 WITH EAGLE MARINE SERVICES

SUMMARY: On June 17 2010, the Board of Harbor Commissioners (Board) approved an amendment to Tariff No. 4 exempting terminal operators from Items 520 and 550-033 of the Port of Los Angeles (POLA) Tariff No. 4 (Tariff), Section Three, “Transferred Merchandise – Wharfage” for the one-year period extending from July 1, 2010 through June 30, 2011 (Board Order No. 10-7055). Permit No. 733 with Eagle Marine Services (EMS) does not allow POLA Tariff amendments to affect the terms of the Permit. Therefore, in order for the amended Tariff provisions to apply to EMS, an amendment to Permit No. 733 is required. The proposed Fifth Amendment to Permit No. 733 would apply the recently amended Tariff, Section Three, “Transferred Merchandise – Wharfage” provisions to EMS.

Recommendation: Board resolve to (1) approve the Fifth Amendment to Permit No. 733 with EMS, which implements the provisions of Tariff, Section Three, “Transferred Merchandise – Wharfage” as amended by the Board on June 17, 2010; (2) direct the Board Secretary to transmit the Fifth 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 Fifth Amendment upon approval by City Council; and (4) adopt Resolution No. _____.

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7. Re: ORDER NO. _____ - RESETTING COMPENSATION UNDER PERMIT NO. 999 WITH CHINA SHIPPING HOLDING COMPANY, LTD.

SUMMARY: Permit No. 999 between the City of Los Angeles Harbor Department (Harbor Department) and China Shipping Holding Company, Ltd. (China Shipping) grants nonexclusive use of 72.48 acres at Berths 100-102 for container terminal operations. The proposed Order resetting compensation is for the five-year period of June 28, 2010 through June 27, 2015. Compensation for this period is proposed to remain unchanged from the previous five-year compensation period.

Recommendation: Board resolve to (1) adopt the Order resetting compensation under Permit No. 999 for the five-year period of June 28, 2010 through June 27, 2015; (2) authorize the Board Secretary to attest to the Order resetting compensation to be paid by China Shipping pursuant to Section 3(g) of Permit No. 999; and (3) adopt Order No. _____.

8. Re: ORDER NO. _____ - PROPOSED COMPENSATION RESETTING UNDER PERMIT NO. 750 WITH SA RECYCLING, LLC

SUMMARY: Permit No. 750 with SA Recycling, LLC (SA) provides for the operation of a scrap metal processing transport facility at Berths 210 to 211 on Terminal Island for a period of 30 years, commencing on August 31, 1994, and ending on August 30, 2024. Permit No. 750 requires that the fixed rent portion of compensation be reset every five years.

The proposed Order resetting the fixed rent compensation is for the five-year period of August 31, 2009 through August 30, 2014. The proposed Order maintains the current compensation rate for the first year of the five-year period based on a \$16 per square foot (s.f.) land value, a ten percent rate of return, and increases compensation for years two through five to current market rental rates based on a \$22 per s.f. land value and a ten percent rate of return.

Recommendation: Board resolve to (1) adopt the Order resetting compensation under Permit No. 750 with SA for the five-year period of August 31, 2009 through August 30, 2014; (2) authorize the Board Secretary to attest to the Order resetting compensation pursuant to Permit No. 750; and (3) adopt Order No. _____.

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REGULAR ITEMS (9 - 12)

Clean Truck Program

9. Re: RESOLUTION NO. _____ - CONCESSION AGREEMENTS: AUTHORIZATION OF REVISED IMPLEMENTATION SCHEDULE FOR PORT OF LOS ANGELES CONCESSION AGREEMENTS

SUMMARY: The requested action is for the Board of Harbor Commissioners (Board) to approve an adjusted schedule for implementation of certain provisions of the Port of Los Angeles (Port) Drayage Truck Concession Agreement (Concession Agreement). Beginning on April 28, 2009, several provisions of the Port Concession Agreement were preliminarily enjoined pending trial by the United States Federal District Court (Court) in connection with a lawsuit filed against the City of Los Angeles (City) by the American Trucking Associations (ATA), challenging the legality of the Concession Agreement. On August 26, 2010, after a trial on the merits, the Court ruled in favor of the City and held that the entire Concession Agreement as originally approved by the Board is legally enforceable. As of September 15, 2010 this judgment was formally entered by the Court and the preliminary injunction was lifted, which made all previously enjoined provisions immediately enforceable. If the Board does not approve the proposed recommendations, then the Licensed Motor Carriers (LMCs) will be in violation of their concession agreements. As a result, staff recommends approval of an adjustment of the dates for implementation of the previously enjoined Concession Agreement provisions, in order to allow time for compliance monitoring and enforcement systems to be put in place and to allow time for the more than 900 LMCs that have entered into Concession Agreements to begin compliance.

Recommendation: Board resolve to (1) approve the adjusted operational implementation schedule for previously enjoined Concession Agreement provisions; and (2) adopt Staff Recommendations contained in the Board Report as Resolution No. _____.

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Executive Offices

10. Re: STATUS UPDATE AND DISCUSSION OF THE FORMULATION OF THE NON-PROFIT ORGANIZATION TO OPERATE PORT COMMUNITY MITIGATION TRUST FUND (PCMTF) IN FULFILLMENT OF HARBOR DEPARTMENT AGREEMENT NO. 09-2764 KNOWN AS THE TRAPAC MEMORANDUM OF UNDERSTANDING (MOU)

Environmental

11. Re: RESOLUTION NO. _____ - MEMORANDUM OF AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

SUMMARY: The United States Army Corps of Engineers (Corps) has federal regulatory authority over certain port construction, dredging, and filling activities. One primary example of such regulatory authority is under the National Environmental Policy Act (NEPA) which requires the Corps to conduct environmental assessments for many port development projects. The Water Resources Development Act of 2000 (WRDA) allows non-federal public entities such as the City of Los Angeles Harbor Department (Harbor Department) to augment the Corps' regulatory budget as a means of facilitating the environmental review process. Staff recommends approval of a 3-year Memorandum of Agreement (MOA or Agreement) with the Corps for a total not-to-exceed amount of \$480,000 which will be used to expedite the Corps' independent evaluation of the Harbor Department's priority permit applications and environmental assessments.

Recommendation: Board resolve to (1) approve the Agreement with the United States Army Corps of Engineers, Los Angeles District, for a term of three (3) years for a not-to-exceed amount of \$480,000; (2) authorize the Executive Director to execute and the Board Secretary to attest to said Agreement for and on behalf of the Board; and (3) adopt Resolution No. _____.

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12. Re: RESOLUTION NO. _____ - TECHNOLOGY
ADVANCEMENT PROGRAM GRANT AGREEMENT WITH
BLUEFIELD HOLDINGS, INC. AND COST SHARE
AGREEMENT WITH THE PORT OF LONG BEACH FOR THE
OCEAN GOING VESSEL SEAWATER SCRUBBER
DEMONSTRATION PROJECT

SUMMARY: The Clean Air Action Plan Technology Advancement Program Advisory Committee has reviewed and recommends funding for the Bluefield Holdings, Inc. (Marietta, Georgia) Ocean Going Vessel (OGV) Seawater Scrubber Demonstration Project (Demonstration Project). The Demonstration Project, using a seven megawatt Krystallon seawater scrubber, is designed to treat and significantly reduce the combined emissions from the boiler and auxiliary engines of an American President Lines C-11 class container ship. The total funding amount for the Demonstration Project is \$1,650,000 which will be shared equally by the City of Los Angeles Harbor Department (Harbor Department) and the Port of Long Beach. It is estimated that the air emission reductions from the retrofitted vessel will result in an 80-85% decrease in diesel particulate matter, a 99.9% reduction in sulfur oxides, and over a 90% decrease in volatile organic carbons.

Recommendation: Board resolve to (1) approve the Technology Advancement Program Grant Agreement with Bluefield Holdings, Inc. for a not-to-exceed amount of \$1,650,000 (Transmittal No. 1); (2) approve the Cost Share Agreement with the Port of Long Beach (Transmittal No. 2) for the reimbursement of \$825,000 from the Port of Long Beach to the Harbor Department, as established by the Clean Air Action Plan Master Cost Sharing Agreement No. 2546; (3) authorize the Executive Director to execute and the Board Secretary to attest to the Grant Agreement for and on behalf of the Board; (4) authorize the Executive Director to execute and the Board Secretary to attest to the Cost Share Agreement for and on behalf of the Board; and (5) adopt Resolution No. _____.