AGENDA OF THE SPECIAL MEETING OF THE LOS ANGELES BOARD OF HARBOR COMMISSIONERS TUESDAY, OCTOBER 26, 2010 AT *12:00 P.M. PORT OF LOS ANGELES ADMINISTRATION BUILDING 425 S. PALOS VERDES STREET SAN PEDRO, CA 90731

BOARD OF HARBOR COMMISSIONERS
President Cindy Miscikowski
Commissioner David Arian
Commissioner Kaylynn L. Kim
Commissioner Robin M. Kramer
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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**** Closed session to begin at 12:00 pm. Open session is anticipated to begin at 1:00 pm or as soon as possible thereafter.***

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 – 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 SA Recycling.

3. 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

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

Initiation of litigation pursuant to subdivision (c) of Section 54956.9 : one case.

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B. CLOSED SESSION (Continued)

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

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

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

Natural Resources Defense Council, Inc., et al. v. City of Los Angeles, et al., Los Angeles Superior Court Case No. BS070017

C. COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

D. EXECUTIVE DIRECTOR REMARKS

E. REPORTS OF THE COMMISSIONERS

F. BOARD COMMITTEE REPORTS

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G. PRESENTATIONS

Resolution - Commissioner Joseph R. Radisich
IT Contracts Update – Lance Kaneshiro, Chief Information Officer

H. BOARD REPORTS OF THE EXECUTIVE DIRECTOR

CONSENT ITEMS (1 - 8)

Construction and Maintenance

1. Re: RESOLUTION NO. _____ - AWARD OF CONTRACT NO. 39538 TO GAS EQUIPMENT SYSTEMS, INC. FOR PURCHASE OF A COMPRESSED NATURAL GAS FUELING SYSTEM

SUMMARY: The Construction and Maintenance Division (C&M) requests approval of Contract No. 39538 with Gas Equipment Systems, Inc. of Rancho Cucamonga, CA for the purchase of a compressed natural gas (CNG) fueling system in the amount of $607,787, including sales tax. The current CNG fueling system at Berth 161 no longer functions at a satisfactory level of efficiency. The current system is also not able to meet the volume requirements of 149 CNG fueled vehicles now part of the City of Los Angeles Harbor Department (Harbor Department) fleet. The fueling system replacement/upgrade was planned and is funded in the Fiscal Year 2010-11 capital budget.

Recommendation: Board resolve to (1) approve Contract No. 39538 with Gas Equipment Systems, Inc. in the amount of $607,787 and authorize said expenditures; (2) authorize the Executive Director to execute and Board Secretary to attest to Contract No. 39538; and (3) adopt Resolution No. _____.

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Environmental

2. Re: RESOLUTION NO. _____ - SECOND AMENDMENT TO COOPERATIVE AGREEMENT NO. 09-2778 WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SUMMARY: ***On August 13, 2009, the Los Angeles Board of Harbor Commissioners (Board) authorized the Executive Director to execute a Cooperative Agreement (Agreement No. 09-2778) with the United States Environmental Protection Agency (EPA) for $1,991,750 in grant funding from the American Recovery and Reinvestment Act of 2009 (Recovery Act) for retrofits, repowers, and replacement of both City of Los Angeles Harbor Department (Harbor Department) and Port of Los Angeles (Port) tenant-owned diesel equipment. EPA has approved a three-month time extension to December 31, 2010 to accommodate purchasing delays and longer manufacturing lead times than expected. Staff is requesting an additional time extension from EPA to extend the Cooperative Agreement to June 30, 2011 to accommodate the delivery of Harbor Department project equipment.***

Recommendation: Board resolve to (1) approve the Second Amendment to Agreement No. 09-2778 between the United States Environmental Protection Agency and the City of Los Angeles Harbor Department, extending the Cooperative Agreement to December 31, 2010; (2) authorize the Executive Director to execute and the Board Secretary to attest to said Second Amendment for and on behalf of the Board; (3) approve the Third Amendment to Agreement No. 09-2778 between the United States Environmental Protection Agency and the City of Los Angeles Harbor Department, extending the Cooperative Agreement to June 30, 2011, subject to the review and approval as to form and legality of such amendments by the Office of the City Attorney; (4) delegate authority to the Executive Director to execute and the Board Secretary to attest to proposed amendments extending the contract term to June 30, 2011, for and on behalf of the Board; and (5) adopt Resolution No. _____.

3. Re: RESOLUTION NO. _____ - CHINA SHIPPING PORT COMMUNITY AESTHETIC MITIGATION PROJECT – FIRST AMENDMENT TO AGREEMENT NO. 09-2762 WITH THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES

SUMMARY: In May 2009, the Los Angeles Board of Harbor Commissioners (Board) approved funding the Alameda St./Harry Bridges Boulevard Buffer Project under the China Shipping Aesthetic Mitigation Program. Agreement No. 09-2762 with the Community Redevelopment Agency of the City of Los Angeles (CRA) was approved for a term of two years and a not–to-exceed amount of $1,814,041. The CRA has requested a two-year time extension to accommodate longer than expected permitting lead times. The amendment extends the contract term to August 2, 2013 (Transmittal 1). The project cost and scope remain unchanged.

Recommendation: Board resolve to (1) approve the First Amendment to Agreement No. 09-2762 extending the contract term to August 2, 2013; (2) authorize the Executive Director to execute and the Board Secretary to attest to said amendment, for and on behalf of the Board; and (3) adopt Resolution No. _____.

Marketing

4. Re: RESOLUTION NO. _____ - PROPOSED STANDARD OFFER AGREEMENT BETWEEN THE CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER AND THE LOS ANGELES HARBOR DEPARTMENT

SUMMARY: Alternative Maritime Power (AMP) allows ships to be powered by shore-supplied electrical power while at berth. On November 20, 2008, and October 15, 2009, the Los Angeles Board of Harbor Commissioners (Board) authorized the Executive Director to sign a Standard Customer Generation Interconnection Agreement and a Service Interruption Agreement, respectively, between the City of Los Angeles Department of Water and Power (LADWP) and the City of Los Angeles Harbor Department (Harbor Department). Upon Board approval of the Service Interruption Agreement, LADWP staff would be taking the Service Interruption Agreement to its Board. Once adopted by the LADWP Board, the published AMP rates for any AMP user at the Port of Los Angeles (Port) could be applied. On May 4, 2010, the LADWP Board adopted a resolution authorizing the DWP's Chief Financial Officer or Rates Manager to execute Standard Offer Agreements, in lieu of the Service Interruption Agreement that Harbor Department staff was led to believe was being

4. (Continued)

adopted. A Standard Offer Agreement identifies, electrical peak demand and load reduction needs.

As required by City Ordinance, LADWP staff is requesting the Harbor Department to sign the Standard Offer Agreement, (Transmittal No. 1) as the final step for LADWP to apply AMP rates. The executed Standard Offer Agreement will replace the Service Interruption Agreement.

Recommendation: Board resolve to (1) approve the proposed (three-year) LADWP Standard Offer Agreement allowing LADWP to apply the published AMP rate; (2) authorize the Executive Director to execute and the Board Secretary to attest to said agreement for and or behalf of the Board; (3) authorize the Executive Director or designee to act as the authorized representative for the purpose of adding or removing generation facilities from the Standard Offer Agreement, as required; and (4) adopt Resolution No. _____.

Planning and Economic Development

5. Re: RESOLUTION NO. _____ - PROPOSED FIRST AMENDMENT TO AGREEMENT NO. E6532 BETWEEN THE CITY OF LOS ANGELES AND INNOVATIVE PARTNERS, INC.

SUMMARY: ***The City of Los Angeles Harbor Department (Harbor Department) entered into Executive Director Agreement No. E6532 with San Pedro-based Innovative Partners, Inc. (Jeff Milanette), on November 6, 2009, to be the Executive Director of PortTech Los Angeles (PortTechLA), a non-profit technology center and business incubator developed through a collaborative effort of the Harbor Department and the San Pedro and Wilmington Chambers of Commerce.***

The proposed First Amendment to Agreement No. E6532 would extend the length of the current 12-month agreement, which expires on November 5, 2010, by an additional 12 months. The effective date would be November 6, 2010, and the expiration date would be November 5, 2011. The proposed First Amendment would also increase the contract amount from $150,000 to $300,000. Since the proposed amendment would extend the term of the agreement beyond one year and the contract amount would be increased above $150,000, Board of Harbor Commissioners (Board) approval is required.

5. (Continued)

Recommendation: Board resolve to (1) approve the First Amendment to Agreement No. E6532, extending the contract term by 12 months, for a total term of 24 months and increasing the contract amount from $150,000 to $300,000; (2) authorize the Executive Director and Board Secretary to execute and attest to the First Amendment for and on behalf of the Board; and (3) adopt Resolution No. _____.

Real Estate

6. Re: RESOLUTION NO. _____ - PROPOSED PERMIT NO. 853 WITH THE CITY OF LOS ANGELES DEPARTMENT OF GENERAL SERVICES

SUMMARY: ***City of Los Angeles Harbor Department (Harbor Department) Order No. 2492 and Permit No. 659 with the City of Los Angeles (City) Board of Public Works (BPW), and City General Services Department (GSD), respectively, grant use of property on Terminal Island for the operation and maintenance of advanced water recycling (Terminal Island Treatment Plant (TITP)), a sanitary sewer outfall facility, the Terminal Island Renewable Energy Project (TIRE), and related facilities. Both Order No. 2492 and Permit No. 659 are on holdover, pending renewal.***

Permit No. 853 is proposed to replace Order No. 2492 and Permit No. 659. Proposed Permit No. 853 with GSD has a 50-year term, incorporates the premises of Order No. 2492 and Permit No. 659 with ministerial modifications, and includes annual compensation of $1,170,117 based upon agreed market rental values, discounted by 35 percent in accordance with Agreement No. 1107 between the Harbor Department and the City.

Recommendation: Board resolve to (1) find that a 50-year permit term for the premises utilized by the City for the TITP is in the best interest of the Harbor Department due to the essential public service it provides to Port of Los Angeles (Port) operations, the ongoing need for such services, and the significant investment required for the waste water treatment plant and associated sewer line infrastructure; (2) approve Permit No. 853 with GSD; (3) direct the Board Secretary to transmit the Permit to the City Council for approval pursuant to Charter Sections 606 and 607; (4) authorize the Executive Director to execute and the Board Secretary to attest to the Permit upon approval by the City Council; and (5) adopt Resolution No. _____.

7. Re: ORDER NO. _____ AND ORDINANCES - PROPOSED CONVEYANCE AND EASEMENT DEEDS AMONG THE LOS ANGELES HARBOR DEPARTMENT, THE PORT OF LONG BEACH, AND THE COUNTY OF LOS ANGELES – LAHD NO. 70061

SUMMARY: On June 19, 2001, the Alameda Corridor Transportation Authority (ACTA) entered into Cooperative Agreement No. 73412 (ACTA Agreement) with the County of Los Angeles (County) for the construction of the Anaheim Street Drain and Pump Station and associated pipelines (Pump Station Project) to discharge storm water collected from the area surrounding the Alameda Corridor Maintenance Yard into the Dominguez Channel. In June 2003, in consideration of the Pump Station Project's benefits to Los Angeles Harbor Department (Harbor Department) owned properties within the East Wilmington area, the Harbor Department agreed to share in the cost of the construction of the Pump Station Project. At that time, the Harbor Department also proposed to transfer property rights to the County in the two Harbor Department owned properties and one property jointly owned by the Harbor Department and the Port of Long Beach (POLB) necessary to construct and permanently operate the Pump Station Project. The three parcels (Parcels 1F, 3DA and 4DA) granting fee simple and easement rights are located near the intersection of Wainwright Avenue and I Street in East Wilmington (see Transmittal 4).

All property rights are proposed to be transferred at no cost in recognition of the services the Pump Station Project provides ACTA and Harbor Department owned properties and the County Flood Control District's (County FCD) agreement to be responsible for ongoing Pump Station operations and maintenance.

<u>Recommendation</u>: Board resolve to (1) adopt the Orders and Ordinances approving and authorizing the proposed Grant and Easement Deeds conveying property rights in Harbor Department properties (Parcels 1F and 3DA) to the County FCD and the Easement Deed which conveys easement rights in the jointly-owned Harbor Department and POLB property (Parcel 4DA) to the County FCD; (2) direct the Board Secretary to transmit the Grant and Easement Deeds and Ordinances to the City Council for its approval in accordance with the provisions of Section 385 of the City Charter and Sections 7.21 and 7.27 of the Los Angeles Administrative Code; (3) authorize the Executive Director to execute and the Board Secretary to attest to the Grant and Easement Deeds upon approval by City Council; and (4) adopt Order Nos. _____.

City Attorney

8. Re: RESOLUTION NO. _____ - FIFTH AMENDMENT TO AGREEMENT FOR PROFESSIONAL LEGAL SERVICES BETWEEN THE CITY OF LOS ANGELES AND KAYE SCHOLER, LLP

SUMMARY: The Office of the City Attorney requests approval of a Fifth Amendment (Fifth Amendment) to Agreement for Professional Legal Services No. 2519 (Agreement No. 2519) between and among the City of Los Angeles (POLA), the City of Long Beach (POLB) and Kaye Scholer LLP (Kaye Scholer), increasing the term of Agreement No. 2519 by two years, for a maximum term of six years, with no change to compensation.

Recommendation: Board resolve to (1) approve the Fifth Amendment to Agreement No. 2519 with Kaye Scholer in the form attached as Transmittal 1, increasing the maximum term to six (6) years, with no change in compensation; (2) authorize the Executive Director to execute and the Board Secretary to attest to the Fifth Amendment to Agreement No. 2519; (3) authorize and direct the Board Secretary to forward the Fifth Amendment to Agreement No. 2519 to the City Council for its approval pursuant to Section 373 of the City Charter; and (4) adopt Resolution No. _____.

REGULAR ITEMS (9 - 11)

Environmental

9. Re: RESOLUTION NO. _____- FIRST AMENDMENT TO AGREEMENT NO. 2655 WITH TETRA TECH, INC. AND AGREEMENT NO. 2656 WITH THE SOURCE GROUP, INC.

SUMMARY: Agreement No. 2655 with Tetra Tech, Inc. (Tetra Tech) and Agreement No. 2656 with the Source Group, Inc. (SGI) provide as-needed environmental assessment and site restoration services to the City of Los Angeles Harbor Department (Harbor Department). An amendment is necessary to complete projects involving baseline site assessments and mandated regulatory agency environmental cleanups. The amendments increase the authorizations for Agreement No. 2655 by $600,000 from $6,550,000 to a not-to-exceed amount of $7,150,000 and Agreement No. 2656 by $500,000 from $3,460,000 to a not-to-exceed amount of $3,960,000. The scope of work and contract term remains unchanged. The agreements will expire in April 2011.

9. (Continued)

Recommendation: Board resolve to (1) approve the First Amendment to Agreement No. 2655 with Tetra Tech Inc. (Transmittal 1) to increase the total contract amount to $7,150,000; (2) approve the First Amendment to Agreement No. 2656 with the Source Group Inc. (Transmittal 2) to increase the total contract amount to $3,960,000; (3) authorize the Executive Director to execute and the Board Secretary to attest to said Amendments for and on behalf of the Board; and (4) adopt Resolution No. _____.

Real Estate

10. Re: RESOLUTION NO. _____ - PROPOSED LEASE AGREEMENT BETWEEN ARCHDIOCESE OF LOS ANGELES EDUCATION & WELFARE CORPORATION AND THE CITY OF LOS ANGELES HARBOR DEPARTMENT

SUMMARY: ***The City of Los Angeles Harbor Department's (Harbor Department) Environmental Management Division (EMD) has conducted monitoring for criteria pollutants and meteorological conditions at the Saint Peter and Paul School located at 706 Bayview Avenue in Wilmington since February 2005. User Agreement E-6412 by and between the Archdiocese of Los Angeles Education & Welfare Corporation (Archdiocese) and the Harbor Department granted the Harbor Department occupancy and use of that location for a two-year period in order to install, operate and service air quality monitoring equipment. That Agreement expired on September 13, 2009, and renewal of the agreement remains pending, although the Archdiocese has allowed the Harbor Department to continue to operate the monitoring station at that location. Further, the Harbor Department's Air Quality Monitoring Program is ongoing and therefore ongoing occupancy and use of the Saint Peter and Paul School location is desired.***

The proposed Lease Agreement (Agreement) with the Archdiocese is retroactive to September 14, 2009, and would afford the Harbor Department use of the Saint Peter and Paul School monitoring site through September 12, 2010, with the option for the Executive Director, with concurrence from the Archdiocese, to extend the Agreement for two additional one-year periods. The compensation rate for the first year is $1,700 per month, for an annual Agreement cost of $20,400. The rent during the first extended term would be $1,800 per month, and the rent during the second extended term would be $1,900 per month. The Executive Director and the Archdiocese have executed the documents necessary to exercise the first-year option effective upon execution of the Agreement.

10. (Continued)

Recommendation: Board resolve to (1) approve the proposed Agreement with the Archdiocese of Los Angeles Education & Welfare Corporation; (2) authorize the Executive Director to execute and the Board Secretary to attest to the Agreement; and (3) adopt Resolution No. _____.

Executive Offices

11. Re: RESOLUTION NO._____- CONSIDER AND APPROVE THE PORT COMMUNITY MITIGATION TRUST FUND (PCMTF) NONPROFIT ORGANIZATION DOCUMENTS IN FULFILLMENT OF HARBOR DEPARTMENT AGREEMENT NO 09-2764, KNOWN AS THE TRAPAC MEMORANDUM OF UNDERSTANDING (MOU)

SUMMARY: On December 6, 2007, the Board of Harbor Commissioners (Board) certified the Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Berth 136-147 (TraPac) Container Terminal and approved the TraPac Project. Subsequent to that project approval, certain entities, individuals, and organizations (TraPac Appellants) appealed the certification/project approval to the Los Angeles City Council under the provisions of the California Environmental Quality Act (CEQA). On April 3, 2008, the Board approved a Memorandum of Understanding (MOU) between the City of Los Angeles (City) and the TraPac Appellants(Transmittal No. 1 – Exhibit 2). The MOU provides for settlement of the appeals and creation of a Port Community Mitigation Trust Fund (PCMTF) to be operated by a Nonprofit entity (Nonprofit) established for the purpose of overseeing grants from the PCMTF. Since July 2010, we have provided updates to the Board as to the issues among the parties. The majority of the issues have been resolved with two exceptions which are discussed below. In addition, language provided by the State Lands Commission has not been accepted and State Lands Commission staff has objected to the current language; however, the City of Los Angeles Harbor Department (Harbor Department) staff is comfortable with the language in the documents as currently written. The Office of the City Attorney supports the language proposed by the State Lands Commission, but will accept the port's current language without the edits.

11. (Continued)

Recommendation: Board resolve to (1) approve in substantial form the attached Operating Agreement of the TraPac Memorandum of Understanding, including the appended Articles of Incorporation, Bylaws of the Nonprofit, and Conflict of Interest Policy. In considering your approval, please provide guidance on how you would like to resolve the two outstanding issues; (2) authorize the Executive Director to execute and the Board Secretary to attest to said documents; and (3) adopt Resolution No. _____ .