

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

BOARD OF HARBOR COMMISSIONERS

President S. David Freeman

Vice President Jerilyn López Mendoza

Commissioner Kaylynn L. Kim

Commissioner Douglas P. Krause

Commissioner Joseph R. Radisich

**A. OPENING STATEMENT – AN OPPORTUNITY FOR MEMBERS
OF THE PUBLIC TO ADDRESS THIS BOARD**

**PERSONS IN THE AUDIENCE MAY ADDRESS THIS BOARD
IN CONNECTION WITH ANY AGENDA ITEM OR DURING
THE PUBLIC COMMENT PERIOD.**

**AS PROVIDED BY THE BROWN ACT, THE BOARD HAS
LIMITED EACH INDIVIDUAL'S SPEAKING TIME TO THREE
MINUTES. ANYONE DESIRING TO SPEAK DURING THE
PUBLIC COMMENT PERIOD IS REQUESTED TO COMPLETE
A SPEAKER CARD AND SUBMIT IT TO THE COMMISSION
SECRETARY, VIA THE SERGEANT AT ARMS, PRIOR TO THE
START OF THE MEETING.**

Commission actions, except actions which are subject to appeal or review by the Council pursuant to other provisions of the Charter, ordinance or other applicable law, are not final until the expiration of the next five meeting days of the City Council during which the Council has convened in regular session. If the Council asserts jurisdiction during this five meeting day period the Council has 21 calendar days thereafter in which to act on the matter.

Please note that this agenda is subject to revision in accordance with the Brown Act. In the event the agenda is revised prior to the meeting, Port staff will endeavor to post the revised agenda on the Port's web site (<http://www.portoflosangeles.org>). Updated agendas also will be available in hard copy at the meeting. Live Board meetings can also be heard at: (213) 621-City (Metro), (818) 904-9450 (Valley), (310) 471-City (Westside) and (310) 547-City (Harbor).

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities.

Sign language interpreters, assistive listening devices, and translation services may be provided. To ensure availability, 72-hour advance notice is required. Contact the Commission office at (310) 732-3444.

Interpretes de señas, sistemas auditivos y servicios de traducciones están disponibles. Para asegurar disponibilidad, se requiere solicitarlos con 72 horas de anticipación. Para hacer la solicitud, llame a la oficina de la Comisión al (310) 732-3444.

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 2
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

B. COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

C. REPORT OF THE EXECUTIVE DIRECTOR

D. REPORTS OF COMMISSIONERS

E. BOARD COMMITTEE REPORTS

F. REPORTS OF THE EXECUTIVE DIRECTOR

Consent Items (1-6)

Marketing Division

1. Re: TEMPORARY ORDER NO. _____
ESTABLISHING PORT OF LOS ANGELES TARIFF NO. 4,
SECTION TWENTY-THREE "INTERMODAL
CONTAINERS - GENERAL RULES AND
REGULATIONS"

PERMANENT ORDER NO. _____ ESTABLISHING
PORT OF LOS ANGELES TARIFF NO. 4, SECTION
TWENTY-THREE "INTERMODAL CONTAINERS -
GENERAL RULES AND REGULATIONS"

SUMMARY: Staff proposes to amend Tariff No. 4 to establish the "Intermodal Container Discount Program," or "IPI Program," that would discount by 10 percent the sums eligible Container Terminal Tenants (Terminal Tenants) that possess existing contracts with the Los Angeles Harbor Department (Harbor

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 3
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

1. (Continued)

Department) would be required to pay between January 1, 2009 and December 31, 2009, on intermodal cargo. This proposed action discharges the instruction provided by the Audit Committee of the Board of Harbor Commissioners (Board) to develop a program that would respond to the worldwide decline in cargo container traffic and the significant economic distress such decline has inflicted on tenants of the Harbor Department. Participants in the IPI Program include APM Terminals Inc., Eagle Marine Services, Evergreen, Yusen Terminals, China Shipping, Yang Ming and TraPac.

As discussed in detail below, the IPI Program creates an incentive for eligible Terminal Tenants in maintaining intermodal container traffic at the Port of Los Angeles (Port), rather than diverting such traffic away from the Port to other transportation gateways. Staff estimates that the maximum cost benefit to IPI Program participants, and, hence, the extent of the Harbor Department's financial exposure in the IPI Program, to be approximately \$13 million. However, the IPI Program is designed to retain container traffic and jobs.

Recommendation: Board resolve that (1) Temporary Order No. _____ and Permanent Order No. _____ establishing Tariff Section Twenty-Three, entitled "Intermodal Containers – General Rules and Regulations" be adopted; (2) the Amendment to the Tariff, which would establish Section Twenty-Three, subject to the California Association of Port Authority (CAPA) review and approval, be approved, and the Executive Director be authorized to work with CAPA to secure this approval or proceed to take independent action in accordance with CAPA procedure; (3) the Board Secretary be authorized to certify to the adoption of the Temporary Order by the Board of Harbor Commissioners and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect prior to adoption by Ordinance for a period not-to-exceed 90 days pursuant to Charter Section 653(b); (4) the Board Secretary be directed to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the amendments to Tariff No. 4 pursuant to City Charter 653(a);

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 4
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

1. (Continued)

and (5) the Board Secretary be authorized to execute the Temporary Order and Permanent Order and Ordinance amending the Tariff as stated above, and upon its publication, transmit the Orders and Ordinance to the Chief Wharfinger for implementation and posting to the Port's website as regulated by the Federal Maritime Commission.

**2. Re: TEMPORARY ORDER NO. _____ AMENDING PORT
OF LOS ANGELES TARIFF NO. 4 SECTION TWELVE,
ITEM 1210 ELECTRICITY FOR POWER AND
LIGHTING**

**Re: PERMANENT ORDER NO. _____ AMENDING PORT OF
LOS ANGELES TARIFF NO. 4, SECTION TWELVE,
ITEM 1210 ELECTRICITY FOR POWER AND
LIGHTING**

SUMMARY: Alternative Maritime Power (AMP) allows vessels to be powered by shore-supplied electrical power while at berth. Los Angeles Department of Water and Power (LADWP) requires those co-generating electricity between the shore and ship, to sign a Multi-Facility Interconnection Agreement. The Board of Harbor Commissioners (Board) approved the Multi-Facility Interconnection Agreement at the November 20, 2008 Board meeting. Invoices for the electrical cost of AMP usage at AMP facilities, included in this Multi-Facility Interconnection Agreement, are sent to the Los Angeles Harbor Department (Harbor Department). The Harbor Department subsequently re-invoices the cost for AMP electrical usage to the Harbor Department Tenant, whose customers incurred these costs. The Port of Los Angeles Tariff states that a 15 percent service charge will be added when the Harbor Department furnishes electrical power to vessels at wharves. This tariff item was established prior to the existence of the AMP program. The Harbor Department encourages the development of AMP by making AMP facilities available at berths, and established a special low cost AMP rate through the LADWP. AMP power usage and associated costs is of such magnitude that an additional 15

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 5
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

2. (Continued)

percent service charge would undermine AMP implementation efforts at the Port.

The Harbor Department is therefore requesting to amend Port of Los Angeles Tariff No. 4, Section Twelve, Item 1210 – Electricity for Power and Lighting to exempt AMP users from the 15 percent service charge otherwise applicable when electrical power is furnished to vessels at wharves.

Recommendation: Board resolve that (1) adopt a Temporary and Permanent Order to amend the Port of Los Angeles Tariff No. 4, Section Twelve, Item 1210, entitled "Electricity for Power and Lighting" to exempt AMP power users from the 15 percent service charge when electrical power is furnished to vessels at wharves; (2) authorize the Board Secretary to certify to the adoption of the Order by the Board of Harbor Commissioners and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect prior to adoption by Ordinance for a period not-to-exceed 90 days pursuant to Charter Section 653(b); (3) direct the Board Secretary to transmit to the City Council for approval the Order and Ordinance approving and authorizing the amendments to Tariff No. 4 pursuant to City Charter 653(a); and (4) authorize the Board Secretary to execute the proposed Board Order and Ordinance amending Tariff No. 4, and upon its publication, transmit the Order and Ordinance to the Chief Wharfinger for implementation and posting to the Port's website as regulated by the Federal Maritime Commission.

Port Pilots

**3. Re: SECOND TEMPORARY ORDER NO. _____
INCREASING AND AMENDING PORT OF LOS
ANGELES TARIFF NO. 4, SECTION THREE, ITEM 370,
CHARGES FOR VESSEL TRAFFIC SERVICE**

SUMMARY: The Vessel Traffic Service (VTS) is operated by the Marine Exchange of Los Angeles/Long Beach Harbors, Inc., and currently serves the Ports of Los Angeles and Long Beach. The VTS monitors vessel traffic within the Los Angeles and Long Beach Harbors and approaches, and provides mariners with timely, relevant, and accurate information for the purpose of

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 6
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

3. (Continued)

enhancing safe, environmentally sound, and efficient maritime transportation.

The Marine Exchange of Los Angeles/Long Beach Harbors, Inc. requested in November 2008 to increase VTS User Fees by approximately seven and one half percent, effective January 1, 2009. This proposed increase was necessary despite substantial cost cutting efforts by the Marine Exchange and amounts to \$26 for an average ship arrival. The fee increase offsets rising costs for computer support, maintenance, and insurance as well as a loss of revenue due to a nine percent decline in vessel arrivals for 2008.

A permanent Order amending and increasing Section Three, Item 370 Charges for Vessel Traffic Service, was approved by the Board of Harbor Commissioners on November 20, 2008. A second temporary Order is being proposed to allow additional time for the permanent Order to pass through the City Council approval process. This temporary Order, if approved, will expire 90 days after the day it is published or upon execution of the permanent order by the City Council, whichever occurs first.

Recommendation: Board resolve that (1) the temporary Order to amend the Port of Los Angeles Tariff No. 4, revising Section Three, Item 370, Parts A – C (1 - 6), which sets forth rates and charges for the Vessel Traffic Service, effective January 1, 2009 be adopted; and (2) the Board Secretary be authorized to certify to the adoption of the Order by the Board of Harbor Commissioners and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect prior to adoption by Ordinance for a period not-to-exceed 90 days pursuant to Charter Section 653(b).

Real Estate

**4. Re: RESOLUTION NO. _____ - PROPOSED LEASE
WITH PACIFIC PLACE ASSOCIATES, LLP FOR OFFICE
SPACE**

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 7
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

4. (Continued)

Recommendation: Board resolve that (1) the proposed lease with Pacific Place Associates, LLP based on the terms and conditions outlined in the lease (Attachment 1) be approved; (2) the expenditure of \$360,000 in fiscal Year 2008/2009, which

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 8
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

4. (Continued)

has been budgeted in Account 59955, Center 0424 be authorized; (3) the transfer, appropriation and expenditure of funds for future years, as proposed in the Financial Impact Statement below be authorized; (4) the Board Secretary be authorized and directed to transmit the lease to the City Council for its approval pursuant to Section 373 of the City Charter; (5) upon approval by the City Council, authorize the Executive Director to execute and the Board Secretary to attest to said lease for and on behalf of the Board; (6) the Executive Director, or her designee, be authorized to make the necessary rental payments to Pacific Place without notice or demand, and to make the parking payments on a month-to-month basis to Standard Parking, using Account 59955/Center 0424; (7) the Executive Director, or her designee, be authorized to make the necessary payments to Pacific Place for the tenant improvements, furniture, fixtures, and equipment at such time that they are substantially completed; (8) the Executive Director, or her designee, be authorized to make necessary payments to vendors and contractors related to communications, voice and data networks, servers, installation, movers and move coordination, as outlined in the Financial Impact Statement; (9) the Real Estate Division be authorized to budget the necessary funds in Fiscal Year 2009/10 and future years for all costs outlined; and (10) Resolution No. _____ be adopted.

Executive Director

**5. Re: FINANCIAL REVIEW FOR FISCAL YEAR 2009 YEAR
TO DATE DECEMBER 2008**

Recommendation: Board resolve that the Financial Review for Fiscal Year 2009 year to date - December 2008, be received and ordered filed.

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 9
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

Environmental Management

6. Re: RESOLUTION NO. _____ - PROPOSED THIRD AMENDMENT TO AGREEMENT NO. 2467 WITH ENVIRON INTERNATIONAL CORPORATION

SUMMARY: *Environ International Corporation is currently under contract with the City of Los Angeles Harbor Department (Harbor Department) for the preparation of the Environmental Impact Report (EIR) for the Southern California International Gateway (SCIG) Project. The SCIG Project is a near-dock intermodal rail facility proposed by Burlington Northern and Santa Fe Railroad (BNSF) that would be located on Port property bordered by Dominguez Channel, Terminal Island Freeway, Pacific Coast Highway and Sepulveda Blvd. Staff recommends an 18-month extension to Agreement No. 2467 to complete the EIR and any follow on work necessary after project approval. This amendment would extend the contract term to October 27, 2010.*

Recommendation: Board resolve that (1) the Third Amendment to Agreement No. 2467 with Environ to extend the contract term by 18 months from April 27, 2009, to October 27, 2010 be approved; (2) the Board Secretary be directed to transmit the Third Amendment to the City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles; (3) upon approval by City Council, the Executive Director and the Board Secretary be authorized to execute and attest to said Amendment for and on behalf of the Board; and (4) Resolution No. _____ approving the Third Amendment to Agreement No. 2467 be adopted.

Regular Items (7 & 8)

City Attorney

7. Re: RESOLUTION NO. _____ THIRD AMENDMENT TO AGREEMENT NO. 2519 BETWEEN THE CITY OF LOS ANGELES, THE CITY OF LONG BEACH, AND KAYE SCHOLER, LLP FOR LEGAL SERVICES

SUMMARY: *The City Attorney requests authority for a Third Amendment and adoption of this Resolution increasing the maximum contract amount from \$4,683,662 to \$7,553,679.*

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 10
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

7. (Continued)

Funds are available for the Fiscal Year 2008-9 appropriation in the amount of \$549,145 due to budget reductions taken by the City Attorney's office for other legal services contracts.

Recommendation: Board resolve that (1) the Third Amendment to Agreement No. 2519, increasing the maximum contract amount of \$4,683,662 to \$7,553,679 be approved; (2) the Executive Director be authorized to execute and the Board Secretary to attest to the Third Amendment to Agreement No. 2519; (3) it appropriate \$549,145 from the Harbor Department City Attorney's Office Account No. 54410, Division No. 0120, Program No. 000 for services under Agreement No. 2519 in Fiscal Year 2008-09 as follows: (a) for Fiscal Year 2008-9: \$549,145 from the existing balance in the Harbor Department City Attorney's Office Account No. 54410, Division No. 0120, Program No. 000 and Program No. 652; and (4) this Resolution increasing the maximum contract amount for Agreement No. 2519 to \$7,553,679 be adopted.

**8. Re: RESOLUTION NO. _____ APPROVAL OF AN
OUTSIDE COUNSEL ENVIRONMENTAL LAW PANEL
AND AGREEMENTS BETWEEN THE CITY OF LOS
ANGELES AND THE SOHAGI LAW GROUP, PLC AND
MEYERS, NAVE, RIBACK, SILVER & WILSON FOR
LEGAL SERVICES**

SUMMARY: The City Attorney requests approval for the selection and retention of the above- referenced law firms to provide legal services to assist the City Attorney's Office.

Recommendation: Board resolve that (1) the attached agreements with The Sohagi Law Group, PLC (Sohagi) in the amount of \$1,100,000 and Meyers, Nave, Riback, Silver & Wilson (Meyers Nave) in the amount of \$470,000, for a total of \$1,570,000 be approved; (2) the selection of six law firms to act as the panel to provide environmental legal services to assist the City Attorney's Office be authorized; (3) this Resolution authorizing the Executive Director to execute and the Board Secretary to attest to the foregoing agreements be adopted; and

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 11
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

8. (Continued)

(4) it appropriate \$610,000 from the Harbor Department City Attorney's Office Account No. 54410, Division No. 0120, Program No. 000 for services under said agreements in Fiscal Year 2008-2009.

G. DEPUTY EXECUTIVE DIRECTOR REPORT

Deputy Executive Director Michael Christensen

H. CLOSED SESSION

- 1. Discussion of pending litigation entitled: American Trucking Associations, Inc. v. City of Los Angeles, et al., United States District Court Case No. 08-04920-CAS, and United States Court of Appeals for the Ninth Circuit Case No. 08-56503, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.**
- 2. Discussion of pending litigation entitled: Federal Maritime Commission v. City of Los Angeles, et al., Order of Investigation and Hearing, Docket No. 08-05, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.**
- 3. Discussion of pending litigation entitled: Federal Maritime Commission v. City of Los Angeles, et al., United States District Court Case No. 1:08-CV-01895-RJL, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.**
- 4. Discussion with legal counsel concerning significant exposure to litigation [four (4) potential cases], pursuant to subdivision (b)(1) of Section 54956.9 of the California Government Code.**

**AGENDA OF THE REGULAR MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 12
THURSDAY, FEBRUARY 19, 2009, AT 8:30 A.M.
BANNING'S LANDING COMMUNITY CENTER
100 E. WATER STREET
WILMINGTON, CA 90744**

H. (Continued)

- 5. Instructions to negotiators relating to lease negotiations with Trapac, Inc. concerning a terminal permit for Berths 136-147, pursuant to Section 54956.8 of the California Government Code. Instructions to negotiators will concern price and terms of payment. The negotiator for Trapac, Inc. will be Frank Pisano. The negotiators for the Port of Los Angeles will be Kathryn McDermott and Michael Galvin.**

- 6. Instructions to negotiators relating to lease negotiations with San Pedro Waterfront, LLC concerning proposed amendment to Revocable Permit No. 03-04 and Permit No. 856, pursuant to Section 54956.8 of the California Government Code. Instructions to negotiators will concern price and terms of payment. The negotiator for San Pedro Waterfront, LLC will be Jayme Wilson. The negotiator for the Port of Los Angeles will be Kathryn McDermott.**

- 7. Instructions to negotiators relating to lease negotiations with San Pedro Fish Markets concerning proposed amendment to Permit No. 387, pursuant to Section 54956.8 of the California Government Code. Instructions to negotiators will concern price and terms of payment. The negotiator for San Pedro Fish Markets will be Tom Amalfitano. The negotiator for the Port of Los Angeles will be Kathryn McDermott.**