

Kenneth A. Ehrlich
Direct: (310) 785-5395
Fax: (310) 712-3395
KEhrlich@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

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November 18, 2010

VIA E-MAIL AND FAX (310) 519-0291

Commissioner Cindy Miscikowski, President
Commissioner David Arian, Vice President
Commissioner Robin Kramer
Commissioner Kaylynn Kim
Commissioner Douglas Krause

City of Los Angeles, Board of Harbor Commissioners
425 South Palos Verdes Street
San Pedro, CA 90731

Re: Gambol Industries, Inc.
POLA-Gambol MOU -- Economic/Infrastructure Analysis

Dear Honorable Commissioners:

This letter updates the Board of Harbor Commissioners ("BOHC") on Gambol Industries' ("Gambol") November 12, 2010 meeting with POLA staff to follow up on marketing study and business plan matters, as directed by the BOHC at its November 4, 2010 meeting. Startling developments occurred at the November 12, 2010 meeting, which clearly warrant Harbor Commissioner attention.

At the November 12, 2010 meeting, Gambol learned for the first time that POLA's consultant, Aecom, forwarded to POLA staff on October 21, 2010 a revised analysis of the infrastructure and capital improvements allegedly necessary for Gambol's use of a portion of the former Southwest Marine Shipyard, entitled "Engineering Evaluation of Gambol Marine Shipyard Proposed Business Plan" ("October Report"). The October Report superseded Aecom's July 21, 2010 similarly titled report to POLA ("July Report").

The October Report contains substantially reduced cost estimates for the items listed in the July Report, yet POLA staff chose not to share this revised and updated report with the BOHC or Gambol. Instead, POLA staff allowed Gambol and the Harbor Commission to spend several hours at the November 4, 2010 meeting challenging cost estimates that staff had already revised. As an example, the electrical upgrade cost estimate went from \$5,000,000 in the July Report down to \$2,495,000 in the October Report.

POLA staff's outrageous manipulation of the significant differences between the July Report and the October Report reveals the duplicitous nature of the Port's treatment of Gambol. Aecom submitted the October Report to POLA more than two (2) weeks before the November 4, 2010 BOHC meeting, but POLA staff failed to share it with Harbor Commissioners or Gambol. POLA staff did not refer to or mention the October Report at the November 4, 2010 BOHC meeting. POLA staff had ample opportunity during the November 4, 2010 discussion of the Gambol proposal to provide the Aecom updated costs estimates to the BOHC (Aecom personnel even attended the meeting), yet failed to do so. Hence, the actions of POLA staff forced Gambol and its consultants to challenge and undermine the Aecom/POLA economic analysis of the proposed shipyard project when POLA staff clearly knew that Aecom had already revised, or was in the process of revising, its July Report to Gambol's benefit.

Specifically, the July Report specifies heavily inflated cost estimates for various improvements, including building upgrades (\$2,400,000) and electrical retrofits (\$5,000,000), but states no basis or justification for these inflated cost estimates. Since receiving the July Report, Gambol expended significant resources investigating the cost estimates and refuting same. Gambol presented its position on some of Aecom's grossly overinflated improvement estimates at the November 4, 2010 BOHC meeting, and proved that the Aecom estimates do not withstand scrutiny.

Of course, at the time of the November 4, 2010 meeting, POLA staff knew that the July Report contained inaccurate estimates and had in hand the October Report, which corrected such inaccuracies. Among other revisions, the October Report plainly shows significant downward revisions of 50% or more of allegedly necessary building and electrical upgrades. POLA staff never had the courtesy or decency to inform Gambol that Aecom was in the process of revising its estimates or that Aecom had, in fact, updated its analysis. Instead, POLA staff remained silent when Gambol's consultants proved that the July Report contained significant errors. The behavior of POLA staff falls far short of the "collaboration" and "cooperation" required by the POLA-Gambol MOU. To the contrary, these actions demonstrate a calculated course of conduct designed to harm Gambol's efforts to comply with the MOU.

In contrast, POLA cannot contest Gambol's extensive collaboration and cooperation with POLA during the MOU process. At every possible juncture since signing the MOU in Summer 2009, Gambol has shared information and collaborated with POLA. Gambol collaborated, consulted, and cooperated with POLA in: 1) designing (and redesigning to appease POLA) a vertical wall CDF at Berths 243-245 to allow disposal of all MCDP-generated dredged materials and the future viable use of these berths as a shipyard; 2) completing a thorough and extensive market study and business plan detailing the economic viability of the shipyard proposal and Gambol's unique operations; 3) engineering the redesign of the former Southwest Marine site to accommodate a modern shipyard; 4) developing a comprehensive strategy to permit and entitle the proposed shipyard; and 5) conducting in-slip sampling of Berths 243-245 to further study its proposed shipyard plan and to benefit POLA's continuing obligation to remediate historic contamination at the site.

POLA's duplicity continues in additional aspects of POLA's use of the October Report. Without any justification or explanation, the updated report adds arbitrary and purportedly necessary new costs of more than \$14,800,000 to Gambol's proposed project that were not present in the July Report. These new alleged costs include, for example, \$6,900,000 for unspecified "design and construction management" costs, \$1,200,000 in additional funds for an environmental impact document (over and above Gambol's estimate for same), and \$3,369,000 for alleged "pier transition" costs. The October Report contains no backup calculations or documents and remains otherwise devoid of any explanation for the new cost items. It is as if POLA staff directed Aecom to ensure that, for every dollar of downward cost revisions, the consultant at least offset the decrease with a corresponding and arbitrary cost increase.

The Aecom reports also contain unreasonable and highly inflated contingencies and management costs. The October Report, completed in conjunction with POLA staff, has built into its cost projections a 25% contingency for each and every line item, and then an additional 17% for "design and construction management" costs on the substantive cost estimates (total of \$40,500,000) presented in the October Report. Thus, \$23,343,180 of the \$55,579,000 total cost estimate in the October Report represents contingencies and unnecessary construction management costs. The Aecom/POLA staff estimates are so over-reaching that they are absurd and unbelievable.

Interestingly, Gambol's Business Plan submitted to POLA contains a \$1,400,000 line item for site investigation and engineering, plus 5% for permitting and an additional 10% for architecture and engineering (an extra 15% contingency that reflects Gambol's conservative estimates). Neither the July Report nor the October Report reflect or acknowledge Gambol's assumed contingencies. Thus, without any basis, Aecom/POLA's additional 17% "design and construction management" cost estimate duplicates and adds onto Gambol's conservative 15% contingency estimate.

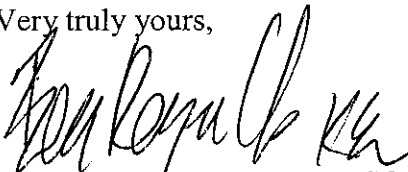
In the end, the Aecom reports and POLA's use of same do not present credible cost estimates for Gambol's proposed shipyard project, and the BOHC should disregard them.

Critical analysis of POLA staff's use of the Aecom reports reveals that staff has no credibility in estimating infrastructure and improvement costs associated with Gambol's proposal. Gambol assembled an esteemed, nationally prominent team of shipyard and engineering experts in the process of submitting its detailed and accurate Business Plan to POLA. In accordance with the MOU and legal principles, Gambol remains entitled to an objective evaluation of its shipyard proposal; to date, Gambol has not had the benefit of such an objective partner.

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POLA staff's attempted manipulation of Gambol's Business Plan presents an example of the Port staff's true intent of killing the Gambol project. Nothing in the staff's treatment of Gambol even borders on the "collaboration" and "cooperation" required by the MOU. Gambol reserves all of its rights and waives none.

Very truly yours,



BENJAMIN M. REZNIK, ESQ.
KENNETH A. EHRLICH, ESQ., of
Jeffer Mangels Butler & Mitchell LLP

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cc: Councilmember Janice Hahn, Chair, Trade, Commerce & Tourism Committee
Councilmember Bill Rosendahl, Trade, Commerce & Tourism Committee
Councilmember Tom LaBonge, Trade, Commerce & Tourism Committee
Geraldine Knatz, Executive Director, POLA
Austin Beutner, First Deputy Mayor and Chief Executive for Economic
and Business Policy
David Reich
Ken Mattfeld, Deputy City Attorney
Steve Otera, Deputy City Attorney