

**AGENDA OF THE SPECIAL MEETING OF THE
LOS ANGELES BOARD OF HARBOR COMMISSIONERS 1
THURSDAY, JUNE 18, 2009, AT 6:00 P.M.
BANNING'S LANDING COMMUNITY CENTER
100 EAST WATER STREET
WILMINGTON, CA 90744**

**BOARD OF HARBOR COMMISSIONERS
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.

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B. COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

C. REPORT OF THE EXECUTIVE DIRECTOR

D. REPORTS OF COMMISSIONERS

E. BOARD COMMITTEE REPORTS

F. APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Minutes of the special meetings of the Los Angeles Board of Harbor Commissioners of September 18, 2008, October 23, 2008, and November 6, 2008, and regular meetings of February 5, 2009 and March 5, 2009 for approval.

G. REPORTS OF THE EXECUTIVE DIRECTOR

Consent Items (1 - 10)

Construction

1. Re: RESOLUTION NO. _____ - CONTRACT COMPLETION
CONTRACTOR: GRIFFITH COMPANY 2004-2005
LANDSCAPING SPECIFICATION NO. 2622 – CONTRACT
NO. 2230

SUMMARY: On June 8, 2005, the Board of Harbor Commissioners awarded the 2004-2005 Landscaping contract to Griffith Company in the amount of \$4,046,182.50 with a contract time of 730 calendar days. This contract provided on-call landscaping services throughout the Port including streetscape enhancements as part of the Mayor's Million Tree Planting Program. A non-compensable time extension of 365 calendar days was granted per Authority for Adjustment (AFA) No. 14R, which extended the contract completion

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1. (Continued)

date to August 21, 2008. AFA Nos. 1 through 38 (Transmittal Nos. 1 and 5) increased the contract amount by \$2,363,775.34. The final revised contract amount is \$6,409,957.84, approximately 58.42% higher than the original contract amount. The major cost increase to this contract was due to issuance of a Board-approved Change Order to construct the Knoll Hill baseball fields (Transmittal No. 6). The Board is requested to accept the subject contract as complete. The 2004-2005 Landscaping contract was awarded before the authority to accept the construction contract upon its completion was delegated to the Executive Director. Therefore, the contract requires Board authorization for acceptance and contract completion. There are no outstanding claims or issues remaining.

Recommendation: Board resolve to (1) receive for information AFA Nos. 1 through 37 showing a net increase to the contract in the amount of \$ 4,574,055.19; (2) approve AFA No. 38 for a decrease in the contract in the amount of \$2,210,279.85; (3) formally accept the subject contract as complete; and (4) adopt Resolution No. _____.

Corporate Communication

2. Re: RESOLUTION NO. _____ – SPONSORSHIP OF A PORT OF LOS ANGELES HIGH SCHOOL MARITIME STUDIES CLASSROOM

SUMMARY: *Each classroom of Port of Los Angeles High School is used for a specific component of the school's Maritime Studies curriculum. Classroom sponsorships starting at \$75,000 are available, with the base cost of the sponsorship based roughly on the initial cost of construction. A one-time Port of Los Angeles sponsorship of a classroom is recommended in the amount of \$75,000, which will provide naming rights for that classroom.*

Recommendation: Board resolve to (1) approve a one-time, \$75,000 classroom sponsorship for Port of Los Angeles High School in accordance with the Board-approved Port of Los Angeles Sponsorship/Hosting Policy and authorize such expenditure; (2) authorize the Executive Director to execute, and the Board Secretary to attest to, the proposed Resolution; and (3) adopt Resolution No. _____.

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Engineering

3. Re: RESOLUTION NO.____ FIRST AMENDMENT –
PERSONAL SERVICES AGREEMENT NO. 2491
BETWEEN THE CITY OF LOS ANGELES HARBOR
DEPARTMENT AND MOFFATT & NICHOL FOR DESIGN
SERVICES FOR THE CABRILLO WAY MARINA

SUMMARY: Agreement No. 2491 between the City of Los Angeles Harbor Department (Harbor Department) and Moffatt & Nichol (Consultant), Long Beach, California to provide engineering design services for the Cabrillo Way Marina project was approved by the Board of Harbor Commissioners (Board) on October 4, 2006. This First Amendment will allow the Harbor Department to extend the Agreement duration an additional three years for a total term of six-years. The three years of additional time will allow the Harbor Department to retain Moffatt & Nichol engineering services during construction of the Cabrillo Way Marina project. No additional budget is requested.

Recommendation: Board resolve to (2) Find that in accordance with the City Charter Section 1022, the work covered under this Amendment can be performed more economically by current project consultant, Moffatt & Nichol, rather than by City employees; (2) Approve the First Amendment to Agreement No. 2491 with Moffatt & Nichol, Long Beach, California, extending the Agreement duration by three-years for a total term of six years; (3) Authorize and direct the Board Secretary to forward the Amendment to the City Council for its approval pursuant to Section 373 of the City Charter; (4) Authorize the Executive Director to execute and the Board Secretary to attest to this amendment for and on behalf of the Board; and (5) Adopt Resolution No._____.

Environmental

4. Re: RESOLUTION NO. _____ - TECHNOLOGY
ADVANCEMENT PROGRAM COST SHARE AGREE-
MENT FOR THE LONG BEACH CONTAINER TERMINAL
HYBRID YARD HOSTLER DEMONSTRATION PROJECT

SUMMARY: The Clean Air Action Plan Technology Advancement Program Advisory Committee has reviewed and recommended funding for the Long Beach Container Terminal (LBCT) Hybrid Yard Hostler Demonstration Project (Project). The Project would demonstrate a diesel-electric hybrid drive system on a yard hostler.

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4. (Continued)

It is anticipated that the hybrid yard hostler will result in significant reductions in criteria pollutant and greenhouse gas emissions and fuel consumption. The recommended funding amount of \$600,000 is to be shared equally between the ports of Los Angeles and Long Beach. The Port of Long Beach has already approved funding for the entire \$600,000 and pending approval of this request, the City of Los Angeles Harbor Department (Harbor Department) will reimburse them \$300,000. Total cost to the Harbor Department will be \$300,000.

Recommendation: Board resolve to (1) Approve the Supplemental Cost Sharing Agreement for the Long Beach Container Terminal Hybrid Yard Hostler Demonstration Project between the City of Los Angeles Harbor Department and the Port of Long Beach for the reimbursement of \$300,000 from the Harbor Department to the Port of Long Beach as established by the Clean Air Action Plan Master Cost Sharing Agreement No. 2546; (2) Authorize the Executive Director to execute and the Board Secretary to attest to the Cost Sharing Agreement with the Port of Long Beach in an not-to-exceed amount of \$300,000; and (3) Adopt Resolution No. _____.

5. Re: RESOLUTION NO. _____ - TECHNOLOGY
ADVANCEMENT PROGRAM COST SHARE
AGREEMENT FOR THE LONG BEACH CONTAINER
TERMINAL ECO-CRANE DEMONSTRATION PROJECT

SUMMARY: *The Clean Air Action Plan Technology Advancement Program Advisory Committee has reviewed and recommended funding for the Long Beach Container Terminal Eco-Crane Demonstration Project (Project). Railpower Technologies Corp. will be the technology provider and Long Beach Container Terminal, Inc. will be the equipment operator for the Project. The Project will demonstrate a rubber-tired gantry (RTG) crane retrofitted with a downsized engine coupled with a battery energy storage device which stores energy during the container drop and supplies energy during the container lift. This system will conserve overall energy, increase fuel efficiency and reduce emissions and noise. It is anticipated that an RTG retrofitted with this unit will result in significant reductions in overall air emissions by 85-90%. This technology offers port tenants a potentially viable transition technology prior to moving to an all-electric crane, since it does not*

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5. (Continued)

require installation of necessary electric infrastructure, surface work, and container row reconfiguration at the terminals. The recommended funding amount is \$350,000 shared equally between the ports of Los Angeles and Long Beach. The Port of Long Beach has already approved funding for the entire \$350,000 and pending approval of this request, the Port of Los Angeles will reimburse them \$175,000. The total cost to the Port of Los Angeles will be \$175,000.

Recommendation: Board resolve to (1) Approve the Supplemental Cost Sharing Agreement for the Long Beach Container Terminal Eco-Crane Demonstration Project between the ports of Los Angeles and Long Beach for the reimbursement of \$175,000 from the Port of Los Angeles to the Port of Long Beach as established by the Clean Air Action Plan Master Cost Sharing Agreement No. 2546; (2) Authorize the Executive Director to execute and the Board Secretary to attest to the Supplemental Cost Sharing Agreement with the Port of Long Beach for a not-to-exceed amount of \$175,000; and (3) Adopt Resolution No. _____.

Goods Movement

6. Re: RESOLUTION NO. _____ FIRST AMENDMENT TO THE FUNDING AGREEMENT FOR THE I-710 ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT, HARBOR DEPARTMENT AGREEMENT NO. 2584

SUMMARY: *The I-710 Major Corridor Study, adopted in 2004, included a hybrid design for improving the freeway corridor which minimizes the right-of-way acquisition impact on adjacent residential properties. This was made possible by utilizing the power easements of the Southern California Edison Company (SCE) and the City of Los Angeles Department of Water and Power (LADWP). The use of these easements was crucial to the success of the adopted Major Corridor Study. SCE and LADWP have requested to be non-voting, ex officio members of the I-710 Corridor Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) Project Committee (see Transmittal 1). The City of Los Angeles Harbor Department's (Harbor Department) funding agreement (FA) with the Los Angeles County Metropolitan Transportation Authority (METRO) for the I-710 project, executed in*

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2007, needs to be amended to allow non-governmental agencies to be a member of the Project Committee, subject to a two-thirds majority vote of the Committee. On April 30, 2009, the I-710 Project Committee approved the addition of SCE, contingent upon execution of an amendment to the FA. The FA does not need to be amended to add LADWP as they are a public agency. As such, the LADWP was approved to be added as well to the Project Committee at the April 30, 2009 meeting. Staff recommends the addition of SCE to the I-710 committee.

Recommendation: Board resolve to (1) approve the First Amendment to the Funding Agreement for the I-710 EIR/EIS, Harbor Department Agreement No. 2584, to include Southern California Edison as a non-voting, ex officio member of the I-710 EIR/EIS Project Committee; (2) authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment to the Funding Agreement, Harbor Department Agreement No. 2584, for and on behalf of the Board; and (3) adopt Resolution No. _____.

Homeland Security

7. Re: RESOLUTION NO. _____ - ACCEPTANCE OF FISCALYEAR 2008 CALIFORNIA PORT AND MARITIME SECURITY GRANT PROGRAM THROUGH PROPOSITION 1B BETWEEN THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY AND THE CITY OF LOS ANGELES HARBOR DEPARTMENT

SUMMARY: *In December 2008, the City of Los Angeles Harbor Department (Harbor Department) was awarded two projects from the California Emergency Management Agency (CalEMA) (formerly the Governor's Office of Homeland Security) for funding from State Proposition 1B. The projects were: Port Surveillance in the amount of \$5,014,938 and Port Security Enhancement/Equipment in the amount of \$4,910,989 for a total award of \$9,925,927.*

On April 15, 2009, CalEMA notified the Harbor Department that the award was made under the FY 2008 California Port and Maritime Security Grant Program through Proposition 1B in the amount of \$9,925,927. In order to finalize the award, the Harbor Department is required to submit a Governing Body Resolution, which authorizes for the Director of Homeland Security to submit projects for funding on behalf of the Board of Harbor Commissioners (Board).

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This grant award will reimburse the Harbor Department for its 25 percent cost share for Federal grant projects in Rounds 5, 7, 7B, and 8 that have been awarded to the Harbor Department under the federal Department of Homeland Security Port Security Grant Program, but as yet have not been completed. As a result of this action no Harbor Department funding will be required for the projects listed in the Discussion section.

This board item is at no cost to the Port and is solely the acceptance of a state grant program. Therefore, operation and maintenance cost will be discussed in future board reports for the projects individually.

Recommendation: Board resolve to (1) find that the City of Los Angeles Harbor Department received a letter on April 15, 2009, from the State of California Governor's Office of Homeland Security naming the City of Los Angeles Harbor Department a grantee in the amount of \$9,925,927; (2) authorize the Board Secretary to attest to Governing Body Resolution for and on behalf of the Board; and (3) adopt Resolution No. _____ accepting the grant allocated to the Harbor Department under CalEMA under the FY 2008 California Port and Maritime Security Grant Program through Proposition 1B.

Marketing

8. Re: TEMPORARY ORDER NO. _____ AMENDING
ITEMS 520 AND 550-033 OF THE PORT OF LOS
ANGELES TARIFF NO. 4, SECTION FIVE
"TRANSFERRED MERCHANDISE - WHARFAGE"

PERMANENT ORDER NO. _____ AMENDING
ITEMS 520 AND 550-033 OF THE PORT OF LOS
ANGELES TARIFF NO. 4, SECTION FIVE
"TRANSFERRED MERCHANDISE - WHARFAGE"

SUMMARY: *Port of Los Angeles (POLA), Tariff No. 4, Section Five "Transferred Merchandise – Wharfage" (Tariff No. 4) Item 550-033 currently assesses a fee of \$71.66 per container for merchandise that is transferred to POLA from another port. Transferred merchandise is merchandise discharged off a vessel at one port and transported by rail from another port. Several terminal operators may handle transferred merchandise for carriers operating their*

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vessels in an alliance with other carriers (alliance members) who dray merchandise from other ports to rail out of POLA's on-dock rail facilities. Staff proposes to amend POLA Tariff No. 4, Items 520 and 550-033 to exempt the assessment of wharfage on transferred merchandise commencing July 1, 2009, and ending on June 30, 2010. This proposed action was requested by some carriers whose vessels call at facilities in San Pedro Bay as a way to maximize rail car utilization for intermodal trains departing POLA. Approving this amendment to POLA Tariff No. 4 provides no economic benefit to the Harbor Department. This amendment as an "interim solution" may provide alliance members with an operational efficiency, resulting in further cost savings.

Recommendation: Board resolve to (1) adopt Temporary Order No. _____ and Permanent Order No. _____ amending POLA Tariff No. 4; (2) approve the Amendment to POLA Tariff No. 4, which would amend Section Five, subject to the California Association of Port Authority (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; (3) authorize the Board Secretary to certify to the adoption of the Temporary Order by the Board of Harbor Commissioners and cause the same items 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) direct the Board Secretary to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the amendments to POLA Tariff No. 4 pursuant to City Charter 653(a); and (5) authorize the Board Secretary to execute the Temporary Order and Permanent Order and Ordinance amending POLA Tariff No. 4 as stated above, and upon its publication, transmit the Orders and Ordinance 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.

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Real Estate

9. Re: RESOLUTION NO. _____ - PROPOSED LEASE AGREEMENT BETWEEN ROBIN PIERSON (LANDLORD) AND THE CITY OF LOS ANGELES, HARBOR DEPARTMENT (TENANT)

SUMMARY: The Port Police requires privately-owned property for their Special Criminal Investigation Task Force (SCITF) to successfully conduct its operation. After searching for a suitable location, the property at 789 W. Channel Street in San Pedro was identified and leased in 2005. Originally, a one-year General Lease Agreement (Agreement) between Robin Pierson, formerly Pierson Properties, as landlord, and the City of Los Angeles Harbor Department (Harbor Department), as tenant, was negotiated and approved with an option to renew for one year. Since the location has proven to be ideal for Port Police operations, the lease was extended through two more one-year agreements. Port Police wishes to continue operations at this location and is requesting that a one-year lease is approved with two one-year renewal options. The proposed Agreement shall replace expiring Agreement No. E6282 for the premises located at 789 W. Channel Street in San Pedro.

Recommendation: Board resolve to (1) approve the Agreement between Robin Pierson, an individual, as landlord and the Harbor Department, as tenant; (2) authorize the Executive Director to execute the Agreement between Robin Pierson and the Harbor Department; (3) authorize expenditure of \$24,312 for Fiscal Year 2009/2010 and no more than a total of \$75,146 for the three-year period. This amount includes U.S. Consumer Price Index (CPI) increases; and (4) adopt Resolution No. _____.

10. Re: PROPOSED ORDER NO. _____ - RESETTling MARITIME EDUCATION SPONSORSHIP COMPENSATION UNDER PERMIT NO. 837 WITH THE PORT OF LOS ANGELES BOYS & GIRLS CLUB

SUMMARY: Permit No. 837 (Permit), between the Los Angeles Harbor Department (Harbor Department) and the Port of Los Angeles Boys & Girls Club (Club), grants non-exclusive, preferential use of approximately 18,200 square feet of space at the Liberty Hill Plaza Building, which consists of a gymnasium/multipurpose room, classrooms, and office space. The Permit has a 20-year term, with an effective date of October 16, 2001, and terminates on October 15, 2021. For the initial five years of the Permit, the Harbor

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Department's annual sponsorship was set at \$100,000 per year, payable in two semi-annual installments of \$50,000 each. The Permit stipulates that the Board of Harbor Commissioners, at its sole discretion, shall determine the amount of the Harbor Department's annual maritime education sponsorship every five years, following the end of the first five-year sponsorship period. It is now necessary to set compensation under the Permit for maritime education sponsorship to the Club for the five-year period commencing October 16, 2006, and ending October 15, 2011.

Recommendation: Board resolve to (1) Adopt Order No. _____ to reset maritime education sponsorship under the Permit, Section 4(c), for the period commencing October 16, 2006, and ending October 15, 2011, as follows:

Year One: October 16, 2006 thru October 15, 2007 - \$100,000
Year Two: October 16, 2007 thru October 15, 2008 - \$100,000
Year Three: October 16, 2008 thru October 15, 2009 - \$100,000
Year Four: October 16, 2009 thru October 15, 2010 - \$100,000
Year Five: October 16, 2010 thru October 15, 2011 - \$100,000

And, to approve a one-time waiver of the terms and conditions of Permit 837, Section 4 (b), to provide additional maritime education sponsorship funding of \$100,000 per year, for three years only for the expansion its maritime education program entitled, "Port Ocean and Land Awareness Program" conducted at its other local facilities adjacent to the Port, with the compensation for this three-year period fixed as follows:

Year One: October 16, 2006 thru October 15, 2007 - \$100,000
Year Two: October 16, 2007 thru October 15, 2008 - \$100,000
Year Three: October 16, 2008 thru October 15, 2009 - \$100,000

(2) Authorize the Board Secretary to attest to the Order fixing maritime education sponsorship compensation to be paid by the Harbor Department to the Club for maritime programming and education purposes pursuant to the Permit and for the one-time waiver of maritime education sponsorship pursuant to Section 4(b) of the Permit for additional facilities.

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Regular Items (11-14)

Clean Truck Program

11. Re: TEMPORARY ORDER NO. _____ AND PERMANENT ORDER NO. _____ AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION 20 – GENERAL RULES AND REGULATIONS – DRAYAGE TRUCKS

SUMMARY: The proposed action involves a series of amendments to the existing Port Tariff No. 4 to: (i) modify the definition of "Drayage Truck" so it applies to trucks with a Gross Vehicle Weight Rating (GVWR) of 33,001 pounds or greater, (ii) modify the definition of "Program Funds" to create an exemption from assessment of the Clean Truck Fee on containers carried by diesel trucks purchased with only Proposition 1B funds and no other public funds; and (iii) require Marine Terminal Operators to comply with the California Air Resources Board (CARB) In-Use On-Road Heavy-Duty Diesel Fueled Drayage Truck Rule (CARB Drayage Truck Rule).

Recommendation: Board resolve to (1) approve the amendment to modify Items 2000 and 2025 and add new Item 2041 in Port of Los Angeles Tariff No. 4 Section 20, Clean Air Action Plan - General Rules and Regulations, 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 (Transmittal 1); (2) adopt a Temporary Order and a Permanent Order to amend Items 2000 and 2025, and add new Item 2041 in Port of Los Angeles Tariff No. 4 Section 20, Clean Air Action Plan - General Rules and Regulations (Transmittals 2 and 3); (3) authorize the Board Secretary 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) direct the Board Secretary to transmit to the City Council for approval the Permanent Order (Transmittal 3) and Ordinance (Transmittal 4) approving and authorizing the amendment to Tariff No. 4 pursuant to City Charter 653(a); and (5) authorize the Board Secretary to execute the Temporary Order, Permanent Order and Ordinance amending Tariff No. 4, and upon its publication, transmit the Order and Ordinance to the Chief Wharfinger for implementation of the tariff change and posting the amended Tariff No. 4 to the Harbor Department's website as regulated by the Federal Maritime Commission.

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Public Hearing

- 12a. Re: **SUBSTITUTION OF A LISTED SUBCONTRACTOR FOR THE PORT OF LOS ANGELES POLICE HEADQUARTERS PROJECT – SPECIFICATION NO. 2665 – CONTRACT NO. 2253**

Public hearing to receive comments from EMS Construction, Inc. and FTR International pursuant to City of Los Angeles Administrative Code 10.14, Subsection 3, regarding FTR International's request to substitute EMS Construction Inc. as the listed subcontractor to perform sheet metal work in the amount of \$397,000 for the Port of Los Angeles Police Headquarters project due to EMS Construction Inc.'s unwillingness to provide a performance bond of their work.

Construction

- 12b. Re: **RESOLUTION NO. _____ SUBSTITUTION OF LISTED SUBCONTRACTOR PORT OF LOS ANGELES POLICE HEADQUARTERS SPECIFICATION NO. 2665 – CONTRACT NO. 2253**

SUMMARY: On February 23, 2008, the Los Angeles Board of Harbor Commissioners (Board) awarded a contract to FTR International (FTR) to construct the Los Angeles Port Police Headquarters project for a total cost of \$42,731,875, with a contract duration of 1,090 calendar days. FTR's bid for this project, submitted on January 23, 2008, listed EMS Construction, Inc. (EMS) as the subcontractor performing sheet-metal work valued at \$397,000. FTR is requesting permission to replace EMS with another subcontractor because EMS is unwilling to provide bonds. FTR has stated that they have included EMS's bonds cost in their bid and will pay for the cost of the bonds. Although EMS states they are able to obtain bonds for this work, they indicate their proposal to FTR did not include furnishing of bonds and EMS is unwilling to provide bonds for their work.

Recommendation: Board resolve to (1) find that a hearing was held in accordance with City of Los Angeles Administrative Code 10.14, Subsection 3, regarding FTR's request to substitute EMS with another subcontractor. (2) find that in accordance with City of Los Angeles Administrative Code Section 10.14, Subsection 4, FTR be allowed to substitute EMS with another subcontractor due to unwillingness of EMS to provide the required bonds (3) adopt Resolution No. _____ .

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Environmental

13. Re: RESOLUTION NO. _____ - FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) FOR THE WILMINGTON WATERFRONT DEVELOPMENT PROJECT (LAHD ADP NO. 050927-164; SCH NO. 2008031065)

SUMMARY: Staff recommends that the Board of Harbor Commissioners (Board) certify the Final Environmental Impact Report (EIR) for the Wilmington Waterfront Development Project in accordance with the California Environmental Quality Act (CEQA), and approve the proposed Project. The proposed Project would connect the community with the waterfront, create open space, and develop visitor-serving commercial and green technology business development opportunities in and around the Port. In approving the proposed Project, the Board will need to certify the EIR, make specific Findings regarding the significant environmental impacts of the proposed Project and mitigation measures to reduce or avoid such impacts, adopt a Statement of Overriding Considerations; adopt a Mitigation Monitoring and Reporting Program (MMRP) to track mitigation, and approve the proposed Project. If approved, the proposed Project would result in significant and unavoidable impacts in the areas of: Air Quality; Geological Resources, Noise, and Cumulative Impacts. Project benefits include providing community and regional access to the Wilmington Waterfront area of the Port, including continuity with the downtown Wilmington Business District connectivity to the Wilmington Buffer Project and open space for access and enjoyment of the waterfront. The proposed Project also includes sustainable design, including constructing Leadership in Energy and Environmental Design (LEED) Certified buildings, use of solar power, using recycled water for the water features, landscaping maintenance, and flushing toilets in new buildings; planting drought-tolerant plants and shade trees; and improving pedestrian and bicycle connectivity. Other project benefits include the creation of 1186 direct construction jobs, 1660 indirect construction jobs and \$140 million in construction expenditures over an 11-year period; and providing approximately 336 new jobs at maximum build out of the proposed Project. The proposed Project would lead to increased tax revenues for the Los Angeles Harbor Department (LAHD) and the City of Los Angeles by expanding the tax base of the area through the introduction of the Mercado, new restaurants, and new industrial development. At full buildout, the proposed Project could be expected to generate annual

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revenue of \$1.2 million from ground leases. Furthermore, the construction of new public open spaces would make the Wilmington community more attractive to visitors resulting in an overall indirect beneficial impact on local tax revenue.

Recommendation: Board resolve to (1) Certify, pursuant to CEQA Guidelines § 15090(a), that the Final EIR for the Wilmington Waterfront Development Project (Transmittal 1) (a) has been completed in compliance with the CEQA, with the State CEQA Guidelines, and the Los Angeles City CEQA Guidelines; (b) was presented to the Board for review and the Board reviewed and considered the information contained in the Final EIR prior to approving the proposed Project; and (c) reflects the independent judgment and analysis of the Board, and that all required procedures have been completed; (2) Adopt and make the attached CEQA Findings pursuant to CEQA Guidelines § 15091, and Statement of Overriding Considerations pursuant to CEQA Guidelines § 15093 (Transmittal 2); (3) Find that, in accordance with the information contained in the Final EIR for the Wilmington Waterfront Development Project, the proposed Project will have unavoidable significant environmental effects on Air Quality, Geological Resources, Noise, and Cumulative Impacts, as defined by Public Resources Code sections 21068, 21080, 21082.2, and 21083 and the State CEQA Guidelines, Sections 15064, 15064.5, and 15382. The Final EIR found no significant effects for Aesthetics Resources, Biological Resources, Cultural Resources, Groundwater and Soils, Hazardous Materials, Land Use, Population and Housing, Public Services, Transportation, Utilities and Water Quality; (4) Find that, in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed Project, which substantially lessen or avoid the significant adverse environmental impacts identified in the Final EIR; (5) Find that, in accordance with the provisions of the State CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, make infeasible certain mitigation measures and project alternatives identified in the Final EIR. Impacts to Air Quality, Geological Resources, Noise, and Cumulative Impacts remain significant and unavoidable even after all feasible mitigation is adopted; (6) Find that all information added to the Final EIR after public notice of the Draft EIR availability for public review, but

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before certification, merely clarifies, amplifies, or makes insignificant modifications in an adequate EIR, and recirculation is not necessary; (7) Find that, in accordance with Public Resources Code section 21081(b) and State CEQA Guidelines Section 15093, the benefits of the proposed Project outweigh the significant and unavoidable environmental impacts of the proposed Project, and adopt the Findings of Fact and Statement of Overriding Considerations (Transmittal 2); (8) Adopt the MMRP transmitted herewith (Transmittal 3) as required by Public Resources Code, Section 21081.6 and CEQA Guidelines Section 15097. The MMRP is designed to ensure compliance with the mitigation measures adopted to mitigate or avoid significant effects on the environment, and identifies the responsibilities of the LAHD as lead agency and other applicable entities, to monitor and verify proposed Project compliance with those mitigation measures and conditions of proposed Project approval; (9) Approve the proposed Project identified in the Final EIR, including all feasible mitigation measures set forth in the EIR with consideration of the Findings of Fact and Statement of Overriding Considerations, and the MMRP; (10) Direct the Engineering Division to proceed with final design and incorporate the mitigation measures, conditions, Environmental Compliance Plan requirements, mitigation monitoring/reporting plan, and Project environmental commitments into all Engineering Plans and Specifications and/or Engineering Permits for the proposed Project; (11) Authorize the Environmental Management Division to file the Notice of Determination (NOD) for the subject proposed Project with the Los Angeles City Clerk; and (12) Adopt the proposed Recommendations and this Resolution No. _____.

City Attorney

- 14. Re: RESOLUTION NO. _____ WAIVING THE POTENTIAL CONFLICT WITH RESPECT TO MAYER BROWN, LLP REPRESENTATION OF PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T ("AT&T") IN CITY OF LOS ANGELES V. PACIFIC BELL TELEPHONE COMPANY DBA SBC PACIFIC BELL TELEPHONE COMPANY, DBA AT&T CALIFORNIA, CASE NO. BC414272**

SUMMARY: The proposed action involves the Board approval of a requested waiver of a conflict of interest from the law firm of Mayer

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Brown, LLP ("Mayer Brown"). The firm represents the City of Los Angeles in the United States of America Ex Rel. State of California Ex Rel., Stanley D. Mosler vs. City of Los Angeles, et al., U.S.D.C., Case No. CV-02-2278 SJO (RZX). Now, it seeks to represent AT & T in litigation initiated by the City of Los Angeles and others. At issue in the litigation is the adequacy of AT&T's Public, Educational and Government ("PEG") access technology under the Digital Infrastructure and Vide Competition Act of 2006 (DIVCA").

Recommendation: Board resolve to (1) formally waives any potential conflict that might arise by way of Mayer Brown representation of AT & T; (2) authorize the City Attorney's Office to execute a written conflict waiver; and (3) adopt this Resolution No. _____ approving the conflict waiver.

H. CLOSED SESSION

1. Discussion of pending litigation entitled: Jesse Marquez v. City of Los Angeles, et al., Los Angeles Superior Court Case No. BS120716, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.
2. Discussion of pending litigation entitled: 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, pursuant to subdivision (a) of Section 54956.9 of the California Government Code.
3. 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.
4. 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.

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H. CLOSED SESSION (Continued)

- 5. 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.**
- 6. 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.**
- 7. Discussion of whether to initiate litigation [one (1) potential case], pursuant to subdivision (c) of Section 54956.9 of the California Government Code.**