






R-23

Date: November 17, 2009

To: Honorable Mayor and Members of the City Council

From: Councilwoman Gerrie Schipske, Fifth District 
Council Member Tonia Reyes Uranga, Seventh District 
Councilwoman Rae Gabelich, Eighth District 

Subject: **Request a Report regarding the Stipulated Settlement between Port of Long Beach and the American Trucking Association involving the Clean Truck Plan.**

The American Trucking Associations, Inc. ("ATA") filed, on July 28, 2008, a Complaint for Declaratory and Injunctive Relief against the City of Long Beach, the Harbor Department of the City of Long Beach, and the Board of Harbor Commissioners of the City of Long Beach (the "Long Beach Defendants") challenging certain provisions of the Port of Long Beach Clean Truck Program. The Port of Long Beach, acting on behalf of the Long Beach Defendants, agreed to a Stipulation of Settlement and Joint Motion for Voluntary Dismissal between the ATA and the Long Beach Defendants, which includes the City of Long Beach.

The City Charter gives the Board of Harbor Commissioners the exclusive power and duty for and on behalf of the City to sue and defend in the name of the City in all actions and proceedings pertaining to any matters within the jurisdiction of the Commission. (Article XII, Sec 1203a) The City Charter also states the City Attorney shall be the sole and exclusive legal advisor to the City the City Council and all city commissions. (Article VI, Sec 603a). The City Charter includes language that states, "The City Council shall have control of all litigating of the City, to the extent that the relationship between the attorney and the client permits or authorizes such control by the client..."

Under the Attorney-Client relationship, we would like to request a report from the City Attorney and the Port of Long Beach regarding the stipulated settlement between Port of Long Beach Board of Harbor Commissioners and the American Trucking Association.

Recommended Action: Approve the City Attorney and Port of Long Beach to provide an "on agenda" report to the City Council regarding the Stipulated Settlement between Port of Long Beach and the American Trucking Association involving the Clean Truck Program.