



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: JANUARY 11, 2022

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - APPROVE TEMPORARY ENTRY AND USE PERMIT NO. 1835 WITH FENIX MARINE SERVICES, LTD. AND CENTER FOR TRANSPORTATION AND THE ENVIRONMENT, INC.

SUMMARY:

Staff requests approval of Temporary Entry and Use Permit (TEUP) No. 1835 with Fenix Marine Services, Ltd. (Fenix) and its contractor, Center for Transportation and the Environment, Inc. (CTE), to use and access the backland area of Berth 301 for a duration of up to 12 months, to test a zero-emission hybrid hydrogen fuel cell/battery electric top handler. TEUP No. 1835 serves as the successor permit to TEUP No. 1784, approved by the Board of Harbor Commissioners on January 14, 2021, and expires on February 3, 2022. Apart from providing extra time, TEUP No. 1835 is identical to TEUP No. 1784. Additional time is required due to shipping delays for component parts.

As noted in the staff report for the January 2021 Board action, the planned demonstration project is funded under a grant from the California Air Resources Board (CARB). The proposed successor TEUP No. 1835 provides Fenix and CTE the necessary real estate entitlement to continue to undertake the demonstration project.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(i), and is categorically exempt pursuant to the requirements of CEQA under Article III Class 6(2), of the Los Angeles City CEQA Guidelines;
2. Approve Temporary Entry and Use Permit No. 1835 with Fenix Marine Services, Ltd. and Center for Transportation and the Environment, Inc.;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Temporary Entry and Use Permit; and
4. Adopt Resolution No. _____.

SUBJECT: APPROVE TEUP NO. 1835 WITH FENIX AND CTE**DISCUSSION:**

Background – On January 14, 2021, the Board adopted Resolution 21-9749, approving TEUP No. 1784 with Fenix and CTE for a period of no longer than 12 months to complete a project to test a zero-emission hybrid fuel cell/battery top handler. This project has been delayed due to the adverse impacts of Covid-19, such as shipping delays of component parts originating from Europe. Staff is requesting successor TEUP No. 1835 be issued for this project for an additional period of up to 12 months. The approach of approving a new joint TEUP will ensure that both Fenix and CTE continue to have an appropriate real estate entitlement in place with insurance and indemnity protections provided for the duration of the project. Other than the extension of the term, there are no other changes to the material terms of the proposed new TEUP No. 1835 from the one previously approved by the Board in January 2021.

As noted in the January 2021 staff report, in 2017, CTE secured a grant on behalf of Fenix under CARB's "Demonstration of Zero-Emission Technologies for Freight Operations at Ports" grant program to demonstrate a zero-emission hybrid hydrogen fuel cell/battery electric top handler at the Fenix terminal. The project cost remains the same as stated in the underlying December 2020 staff report, and is estimated to be \$8.8 million, of which \$6.5 million would be funded by the grant, and the remaining \$2.3 million would be borne by CTE and its partners. In July 2020, CTE completed installation of the concrete charging pad necessary for the demonstration, and in November 2021, the top handler wheel guides were installed on the pad. The City of Los Angeles Harbor Department (Harbor Department) agreed to construct a ~4,000 square foot driveway to the demonstration site (Transmittal 1) for this project, and the contractor is scheduled to complete the paving work associated with the driveway by January 14, 2022. The top handler is currently scheduled to arrive during the First Quarter of 2022, and the estimated testing period is eight months.

As also noted in the January 2021 staff report, this testing project aligns with the Harbor Department's Zero Emissions Roadmap, Zero Emissions White Paper, and the 2017 San Pedro Bay Ports Clean Air Action Plan Update. Completion of the project would help forge a path towards commercialization of zero-emission top handlers, facilitating potential deployment by terminals at the Port of Los Angeles.

The Harbor Department's contribution to this project is limited to 1) granting the underlying TEUP No. 1784 and this successor TEUP No. 1835; and, 2) constructing a ~4,000 square foot driveway to the demonstration site, which is estimated not to exceed \$120,900 (a decrease from the initial estimate of \$150,000 provided for in the January 2021 staff report).

SUBJECT: APPROVE TEUP NO. 1835 WITH FENIX AND CTE

Material terms of proposed TEUP No. 1835 (Transmittal 2) are as follows, and are identical to the terms of the previously approved TEUP No. 1784 except for the 12 additional months requested to complete the project:

| Provisions | Description |
|---|---|
| Real Estate Entitlement | TEUP |
| Assignees | 1. Fenix Marine Services, Ltd. 2. Center for Transportation and the Environment, Inc. |
| Premises | 24,450 square feet (0.56 acres) of backland area at Berth 301 as depicted in the attached site map. |
| Permitted Use | Use and occupancy of the Premises for the demonstration of a zero-emission hybrid hydrogen fuel cell/battery electric top handler, including the installation of a wireless charging station and mobile hydrogen fueling system, and all lawful activities related and incidental thereto. Assignees are prohibited from conducting any marine terminal operations under this TEUP. |
| Effective Date | Upon Board approval and execution by the Executive Director |
| Term | Up to 12 months after the Effective Date |
| Revocation | Executive Director may revoke this TEUP at any time with 15 days' written notice. |
| Compensation | Assignees will not pay any monetary compensation for the use of the Premises under this TEUP. |
| Compliance with Applicable Laws and Environmental Obligations | Assignees will comply with all applicable laws and regulations and implement any environmental permit conditions as required by the Environmental Management Division. |
| Restoration | Upon expiration or termination of this TEUP for whatever reason, Assignees shall return the Premises in the condition it was at the issuance of this TEUP, unless otherwise requested by the Executive Director and with the exception of any paving constructed by the Harbor Department during the term of this TEUP. |
| Insurance | Insurance provision includes all standard insurance requirements. |

SUBJECT: APPROVE TEUP NO. 1835 WITH FENIX AND CTE

ENVIRONMENTAL ASSESSMENT:

The proposed action is for the approval of successor TEUP No. 1835 with Fenix and its contractor, CTE, for access to and use of the backland area of Berth 301 to test a zero-emissions hybrid hydrogen fuel cell/battery electric top handler, which is an activity for which the underlying project has been previously assessed in the Second Addendum to the Final Environmental Impact Report for the Berths 302-306 Project (SCH# 2009071031), certified by the Board on May 20, 2021, and an activity involving basic data collection and field testing which do not result in serious or major disturbances to an environmental resource. Therefore, the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to CEQA in accordance with Article II Section 2(i), and is categorically exempt from the requirements of CEQA in accordance with Article III Class 6(2), of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed TEUP No. 1835 will allow Fenix and its contractor, CTE, use of the property located in the backland area of Berth 301 to test a zero-emission hybrid hydrogen fuel cell/ battery electric top handler. The total cost of the project is \$8.8 million, of which \$6.5 million would be funded by the CARB grant and the remaining \$2.3 million would be borne by CTE and its partners. The Harbor Department's contribution to this project is limited to 1) granting the underlying TEUP No. 1784 and the proposed successor TEUP No. 1835; and 2) constructing a ~4,000 square foot driveway to the demonstration site, which is estimated to cost \$120,900. Funding in the amount of \$120,900 is available within Center 1005, Program 636, Account 54510 (Construction Services).

CITY ATTORNEY:

Temporary Entry and Use Permit No. 1835 has been reviewed and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Project Site Map
2. Temporary Entry and Use Permit

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MARISA L. KATNICH
Director, Cargo & Industrial Real Estate

FIS Approval: MB
CA Approval: SO
Michael DiBernardo
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APPROVED:

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EUGENE D. SEROKA
Executive Director