

**DATE: FEBRUARY 6, 2024**

**FROM: ENVIRONMENTAL MANAGEMENT**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - APPROVAL OF AN AGREEMENT WITH YUSEN TERMINALS LLC. TO IMPLEMENT A ZERO EMISSION YARD TRACTOR DEMONSTRATION PROJECT**

**SUMMARY:**

Staff requests approval of an agreement with Yusen Terminals, LLC. (YTI) to implement a zero-emission yard tractor demonstration project (Project). The Project requires YTI to demonstrate two zero-emission yard tractors, that are human-operated, at the terminal property for three years in order to satisfy an environmental requirement identified as "Lease Measure AQ-4: Zero or Near-Zero Emissions Demonstration Project" contained in Permit No. 692. The Agreement sets out the respective costs and responsibilities between the City of Los Angeles Harbor Department (Harbor Department) and YTI.

YTI is required to lease the demonstration equipment from its selected vendor and conduct the demonstration with periodic reports to the Harbor Department. The Harbor Department is required to install electrical charging infrastructure, reimburse YTI for the equipment lease payments and other related costs, and provide administrative oversight for the Project. The Harbor Department will be financially responsible for certain costs of the Project specified in the Agreement, including equipment lease costs, infrastructure equipment installation, and maintenance costs for a total estimated cost of \$1,500,000.

**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 is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(i), of the Los Angeles City CEQA Guidelines;
2. Approve the Agreement between the City of Los Angeles Harbor Department and Yusen Terminals, LLC.;
3. Direct the Board Secretary to transmit the Agreement to the City Council for approval pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5;
4. Authorize the Executive Director to execute and the Board Secretary to attest to said Agreement upon approval by City Council; and
5. Adopt Resolution No. \_\_\_\_\_.

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**DISCUSSION:**

Background/Context – YTI occupies Berths 212-224 (Premises), pursuant to Permit No. 692 dated October 27, 1990, as amended (Permit), which expires on September 30, 2026. The Harbor Department and YTI are in continuing negotiations for a successor permit. On November 7, 2014, the Board approved Resolution No. 14-7721 certifying the Environmental Impact Report (EIR) and approving the Berths 212-224 [YTI] Container Terminal Improvements Project to construct various improvements to the Premises, including deepening berths, installation of sheet piles, expanding the on-dock rail facilities, various cranes improvements, and backland surface improvements. The Board also adopted the Mitigation Monitoring and Reporting Program (MMRP) for the approved project as assessed in the EIR.

On December 18, 2014, the Board approved Resolution No. 14-7737 to approve the 11<sup>th</sup> amendment to Permit No. 692 with YTI which incorporated the requirements of the MMRP to ensure compliance with certain mitigation measures, lease measures and project conditions that are the responsibility of YTI. Among the requirements, the MMRP contains the following Lease Measure (LM):

**“LM AQ-4: Zero or Near-Zero Emissions Demonstration Project.** The tenant will participate in a demonstration project lasting three years to investigate the feasibility of using two zero emission or near-zero emission yard tractors on the YTI Terminal. [The Harbor Department] shall provide the equipment to be tested and any necessary infrastructure, including charging stations, as part of the project.”

Although no specific start date is established in the MMRP, the duration of the LM AQ-4 demonstration project (Project) is three years. Because the Permit 692 term expires on September 30, 2026 and the demonstration period is three years, YTI is required to complete the demonstration Project during operations within the term of YTI’s rights to use the Premises under the Permit or a successor permit or other entitlement.

After the requirement became effective following City Council approval in 2015, Harbor Department staff began investigating the early introduction of zero and near-zero emission technologies that could meet the obligations of the Project, which was considered ground-breaking at the time. Since 2017, Harbor Department staff has met with YTI on a regular basis to consider the types of emerging zero and near-zero emission technologies being planned for demonstration and available grant funding opportunities. However, zero and near-zero emission technologies specific to yard tractors were limited at that time. Harbor Department staff also looked for opportunities to share equipment from other demonstration projects that had started prior to 2020. Based on challenges with equipment performance and grant obligations at other marine terminals, it was determined that equipment at other demonstration projects could not be used at the YTI terminal to meet YTI’s Permit demonstration Project requirement. In 2021, YTI and the Harbor Department made an effort to secure two zero emission yard tractors manufactured by Kalmar which were later removed from production before an agreement could be reached due to battery safety concerns announced by the manufacturer in 2022.

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As a result, YTI finalized its selection of demonstration equipment with new vendors in 2023 based on their operating needs. The selection includes two battery electric terminal yard tractors, one of which is manufactured by MAFI (i.e., the MAFI Tractor), and the other which is manufactured by TICO (i.e., the TICO Tractor), collectively referred to herein as the Equipment. Due to the Equipment procurement timeline, the possibility exists for one or both of the Equipment units to be delivered in 2025; meaning that there would be less than three full years to complete the demonstration Project within the original Permit term. The physical demonstration Project tasks must be completed on the Premises within the term of YTI's rights to use the Premises under the Permit or a successor permit or other entitlement agreed to by the parties.

Agreement – The Project will be implemented through an Agreement with YTI (Transmittal 1) which details the costs and responsibilities of the parties to implement the LM AQ-4 demonstration project. Exhibit A sets forth the scope of work and Exhibit B sets forth the Harbor Department's reimbursement and payment obligations.

YTI Scope of Work – The Agreement scope of work requires YTI to perform a three-year demonstration of two battery-electric zero emission yard tractors, that are human-operated, to test the feasibility of the Equipment in marine terminal cargo handling activities at its Permit Premises. YTI is responsible for leasing and operating the Equipment in accordance with original equipment manufacturer guidelines and, at its own expense, will maintain, repair, or replace the equipment or any component thereof during the term of the Agreement, and as covered by the manufacturer's three-year equipment warranty. During the demonstration Project, YTI will also be responsible for infrastructure maintenance and providing semi-annual monitoring reports regarding equipment performance along with a final report with recommendations for future implementation in terminal operations. At the end of the demonstration Project, YTI is responsible for returning the yard tractors to the authorized dealer or manufacturer as stipulated in the lease agreement. Alternatively, YTI may elect to purchase with YTI's own funds the yard tractors or make additional lease payments directly to the authorized dealer or manufacturer, which is beyond the Harbor Department's three-year obligation for this demonstration Project.

Harbor Department Responsibilities – In 2015, the Harbor Department agreed in the Permit's Lease Measure LM AQ-4 that it would "provide the equipment to be tested and any necessary infrastructure, including charging stations, as part of the project." Therefore, the Harbor Department will reimburse YTI for three years of Equipment lease payments and install electrical infrastructure at the Premises, which includes electric vehicle supply equipment for charging the zero emission yard tractors. In addition, the Harbor Department will reimburse YTI for its actual costs of maintaining the infrastructure during the Agreement term, and provide administrative oversight, including coordination with YTI on the electrical infrastructure installation and receiving and reviewing YTI's demonstration reports.

The electrical infrastructure and charging equipment will remain at the YTI Permit Premises after the Project is concluded. The charging equipment is non-proprietary, which would make it compatible to be used by YTI (or any successor tenant of the

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Premises) with other types of yard trucks and Medium/Heavy Duty equipment requiring electrical battery charging.

The Harbor Department is required to pay for the following items estimated at a total cost of \$1,500,000:

- Battery charging infrastructure equipment and installation costs;
- Reimbursement to YTI for Equipment lease costs for 36 months estimated at \$686,311;
- Reimbursement to YTI for actual costs to (i) maintain the Infrastructure; and (ii) repair or replacement costs that are not covered by the Infrastructure manufacturer's warranty or otherwise paid for by the Infrastructure manufacturer during the term of this Agreement, and
- Reimbursement to YTI for any breakage costs YTI pays to Equipment vendor for early termination of the Equipment lease, if caused by the Harbor Department's early termination of the Agreement, under the Harbor Department's right to terminate for any reason (including non-appropriation of funds).

Agreement Term - The term of the Agreement will terminate on the earlier of (a) sixty (60) days after YTI's submission of the Final Report and the Harbor Department's final payment of all Agreement reimbursements; or (b) such other date upon which YTI ceases to operate on the premises. Depending on the date of City Council consideration, the total term length could be approximately four years.

Contingency for Demonstration Early Termination - Depending on the delivery date of the equipment, if the Permit expires on September 30, 2026, with no successor permit or other entitlement for YTI's continued operation on the Premises, then the Agreement shall terminate on September 30, 2026, which may be less than a full three years due to legal infeasibility based on the loss of Premises entitlement. In such event, YTI's sole remaining obligation shall be to comply with its reporting and recordkeeping requirements for demonstration activity prior to the termination effective date, including a Final Report through such activity. The Harbor Department shall reimburse YTI for expenses incurred in accordance with the Agreement prior to the termination date and the Equipment Lease Early Termination Costs arising from YTI's early termination lease agreement(s) in accordance with Agreement Exhibit B.

Project Schedule – The Project schedule includes the following estimated dates and responsible parties, which may be adjusted based on equipment delivery:

- Equipment Purchase Order – 1<sup>st</sup> Quarter 2024 (YTI and Vendor/Manufacturer)
- Equipment Production – 360 days from order date (MAFI and TICO)
- Equipment Delivery – 1<sup>st</sup> Quarter 2025 (MAFI and TICO)
- Infrastructure installation – 1<sup>st</sup> Quarter 2025 (Harbor Department)
- Start Demonstration Project – 2<sup>nd</sup> Quarter 2025 (Harbor Department and YTI)
- Equipment Testing and Semi-Annual Reporting – 2025 until end of three-year completion (Harbor Department and YTI)

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- End Demonstration Project – Estimated in 2028, if under successor permit/entitlement; or September 30, 2026 if no successor permit (Harbor Department and YTI)
- Submit Final Report to Harbor Department – within 60 days upon completion of the demonstration Project (YTI)

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of an Agreement with YTI to implement a zero-emission yard tractor demonstration project, which is an activity for which the underlying project has been previously assessed in the Berths 212-224 [YTI] Container Terminal Improvements Project Environmental Impact Report (SCH#2013041017), which was certified by the Board on November 7, 2014. Therefore, the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to the requirements of CEQA under Article II Section 2(i) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

The Harbor Department’s financial responsibility for the Agreement is estimated at \$1,500,000. Project funds are anticipated to be expended as follows:

FY 2024/25	\$300,000
FY 2025/26	\$400,000
FY 2026/27	\$400,000
FY 2027/28	\$400,000
<b>TOTAL</b>	<b>\$1,500,000</b>

Funds for the charging infrastructure and installation costs will be budgeted and expended through the department’s Capital Improvement Program and requested through the Project Development Committee and Annual Budget Process. Equipment lease expenses will be expended from Account 59190 (Equipment Rental), Center 0330 (Environmental Management), Program 000 (Base Budget), and funding for other reimbursement expenses will be identified and requested in future years. Funding for the first year of this project is currently being requested through the FY 2024/25 Proposed Budget process. The Harbor Department’s financial obligations after the first year of the Agreement are contingent upon the Board appropriation of funds. If any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, then the Agreement shall be terminated.

**CITY ATTORNEY:**

The Office of the City Attorney has reviewed the proposed Agreement and approved it as to form and legality.

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**TRANSMITTALS:**

1. Agreement with the Yusen Terminals LLC.

FIS Approval: MB

CA Approval: SO



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Acting Director of Environmental Management

*Michael DiBernardo*

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