

ORDINANCE NO. _____

An ordinance authorizing the Department of Public Works, Bureau of Sanitation to use the progressive design-build project delivery method and the competitive sealed proposal selection process consistent with City Charter Section 371(b) for the construction of the Donald C. Tillman Water Reclamation Plant Primary Equalization Basin and future Groundwater Replenishment projects and related services.

WHEREAS, Section 371(b) of the Los Angeles City Charter permits the letting of contracts pursuant to a competitive sealed proposal method in accordance with criteria established by ordinance adopted by at least two-thirds of the City Council, and allows for the use of design-build or other appropriate project delivery systems when justified by the type of project and approved by the contracting authority;

WHEREAS, the purpose of this ordinance is to establish criteria for the award of contracts pursuant to a competitive sealed proposal method and authorize the use of the progressive design-build delivery method for contracts for the procurement, pre-construction services, construction, and related services for the Donald C. Tillman Water Reclamation Plant Primary Equalization Basin and future Groundwater Replenishment projects (Projects);

WHEREAS, as part of the City of Los Angeles' (City) long-term water management objectives of increasing local water supplies, the Department of Public Works, Bureau of Sanitation (LASAN) has been leading the development of an Advanced Water Purification Facility Project (AWPF) and several supporting projects that will supply purified recycled water to replenish the San Fernando Groundwater Basin via surface spreading, using advanced treatment technologies that include microfiltration, reverse osmosis, and ultraviolet advanced oxidation processes;

WHEREAS, the AWPF, which is currently in the design phase, will be located at LASAN's Donald C. Tillman Water Reclamation Plant, which receives average daily flows of 55 million gallons from approximately 300,000 residents and businesses from the East San Fernando Valley;

WHEREAS, extensive research and analyses recommend constructing a flow equalization basin for the AWPF, because the flows in the City's wastewater conveyance system vary greatly between daytime and nighttime, and the AWPF requires constant and stable flow in order to produce high-quality recycled water suitable for indirect potable reuse;

WHEREAS, to design and construct the Primary Equalization Basin Project, LASAN is pursuing an alternative project delivery model known as progressive design-build, where much of the performance risk is shifted to the project developer who has the necessary expertise and track record for such projects;

WHEREAS, progressive design-build is a two-phase delivery method in which the design, cost-estimating, and final pricing of the project progresses during the first phase, and if the City and developer reach agreement on the final pricing and schedule, the final design, construction, and commissioning are completed in the second phase;

WHEREAS, it is advisable for LASAN to use the competitive sealed proposal selection process and the progress design-build alternative project delivery method pursuant to the terms of this ordinance, because this method will minimize time and cost and improve the project delivery outcome by directly involving the City in the design process, and should provide the best value to the City and lowest ultimate cost;

WHEREAS, the Los Angeles City Council desires to authorize LASAN to use the competitive sealed proposal selection process and the progressive design-build project delivery method for the Projects; and

WHEREAS, the Los Angeles City Council desires to establish the criteria for the letting of contracts by LASAN for the Projects pursuant to such competitive sealed proposal selection process.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The Department of Public Works, Bureau of Sanitation (LASAN) may use the competitive sealed proposal selection process as provided herein and the progressive design-build project delivery method for the following projects: Donald C. Tillman Water Reclamation Plant (DCTWRP) Primary Equalization Basin and future Groundwater Replenishment projects (Projects). Such contract(s) shall be awarded by the Board of Public Works, on behalf of LASAN, subject to the City Council's right of review under Charter Section 245. No award may be made to a proposer whose final proposal is higher as to the ultimate cost to the City (as defined in Charter Section 371) than any other responsive proposal submitted. In order to utilize this method, the Board of Public Works shall make a written finding supported by a written statement of facts that adherence to the rule that the award be made to the lowest responsive and responsible bidder is not practicable or advantageous, and shall also state in writing the reason for the particular award.

Sec. 2. Contract negotiations may be engaged in by LASAN after proposals have been opened to allow clarification and changes in the proposal. LASAN shall take adequate precaution to treat each proposer fairly.

Sec. 3. Proposals shall be solicited by issuing a Request for Proposals (RFP), which shall be subject to prior Board of Public Works approval, and subject to review by the City Council under Charter Section 245. Public notice of the RFP shall be given in

writing or electronically to prospective contractors. The RFP shall state the time and place at which the proposals will be received. Proposals received after the time and date specified shall be returned unopened and shall not be considered.

Sec. 4. At a minimum, the RFP shall include: (a) description of the services and items desired or the scope of work to be performed; (b) a statement of the evaluation criteria that will be used in evaluating proposals; and (c) a statement as to when and in what form costs or prices are to be submitted. In addition, the RFP shall require that proposers submit, at a minimum: (i) relevant experience; (ii) evidence of bonding capability; (iii) a listing of subcontractors or a selection plan for subcontractors that meets specified requirements and which is sufficient to ensure that fair practices are used in such selection; (iv) updated financial and other relevant information sufficient to provide evidence of financial ability to complete the work; and (v) such other information as LASAN deems relevant and appropriate.

Sec. 5. The evaluation criteria shall be described in the RFP, which will identify evaluation factors and their relative importance to the proposed work or project. The criteria shall include, but not be limited to, a means to measure how well a proposal meets desired performance requirements and how the lowest ultimate cost will be determined.

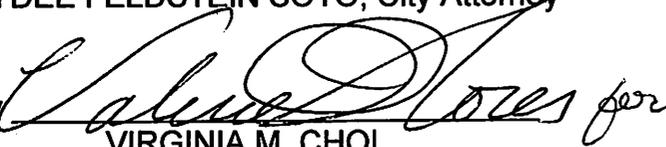
Sec. 6. Proposals shall be opened and their contents secured to prevent disclosure during the process of negotiating with competing proposers. Adequate precautions shall be taken to treat each proposer fairly and to ensure that information gleaned from competing proposals is not disclosed to other proposers. Except for the names of the proposers, information contained in the proposals, including price, shall not be disclosed until a recommendation for award is made to the Board of Public Works.

Sec. 7. An award shall only be made to the responsible and responsive proposer whose final proposal is most advantageous to the City, except that the Board of Public Works may reject any or all offers if rejection is in the best interest of the City. No award may be made to a proposer whose final proposal is higher as to the ultimate cost to the City (as defined in Charter Section 371), than any other responsive proposal submitted. The Board of Public Works shall document its findings regarding this determination.

Sec. 8. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

HYDEE FELDSTEIN SOTO, City Attorney

By  for
VIRGINIA M. CHOI
Deputy City Attorney

Date December 4, 2023

File No. _____

M:\GENERAL COUNSEL DIVISION\ORDINANCES AND REPORTS\ORDINANCES - FINAL YELLOW\Ordinance - 371b re DCTWRP Primary Equalization Basin & Groundwater Replenishment.docx

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than two-thirds** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____