

ORDINANCE NO. _____

An ordinance authorizing the Board of Water and Power Commissioners (Board) to award an agreement pursuant to a competitive sealed proposal method permitting negotiations relating to the design, engineering, procurement, and construction, testing and commissioning of the Scattergood Generating Station (SGS) Units 1 and 2 Green Hydrogen-Ready Modernization Project.

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

Section 1. The Los Angeles Department of Water and Power (LADWP) may enter into a contract utilizing alternate project delivery methods on a competitive-sealed proposal basis, as provided herein, for the Scattergood Generating Station (SGS) Units 1 and 2 Green Hydrogen-Ready Modernization Project (Project). Such alternative project delivery methods may include, but are not limited to, Construction Manager at Risk, Design-Build, Progressive Design-Build, or Engineer, Procure and Construct (EPC).

Sec. 2. Contract negotiations may be engaged in by LADWP after proposals have been opened to allow clarification and changes in the proposal. LADWP shall take adequate precautions 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.

Sec. 3. Any decision by LADWP to use the competitive sealed proposal method permitting negotiations for contracts shall be supported by a written finding supported by a written statement of facts, that adherence to the rule that the contract award be made to the lowest responsive and responsible bidder is not practical or advantageous. No award may be made utilizing this method to a proposer whose final proposal is higher as to the ultimate cost to the City of Los Angeles (City) than any other responsive proposal submitted.

Sec. 4. Proposals shall be solicited by the issuance of a Request for Proposal (RFP) to obtain bids from qualified firms or from firms at large. The RFP shall be published in the same manner as notices for public works contracts performed by LADWP. The RFP shall state the time and place at which the proposals will be received by LADWP. Proposals received after the time and date specified shall be returned and shall not be considered. LADWP retains the right to reject all proposals.

Sec. 5. At a minimum, the RFP shall include:

- (a) 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 evaluation proposals; and
- (c) a statement as to when and in what form costs or prices are to be submitted. In addition, the RFP may require that proposers submit:
 - (i) relevant experience;
 - (ii) qualifications;
 - (iii) approach;
 - (iv) risk assessment;
 - (v) schedule;
 - (vi) evidence of bonding capability;
 - (vii) a listing of subcontractors or a selection plan for subcontractors who meet specified requirements and which is sufficient to ensure that fair practices are used in such selection;
 - (viii) updated financial and other relevant information sufficient to provide evidence of financial ability to complete the work;
 - (ix) training plan; and
 - (x) such other information as LADWP deems relevant and appropriate.

Sec. 6. The evaluation criteria shall be described in the RFP in a plan of evaluation that identifies 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. 7. Pursuant to Los Angeles City Charter Section 371(b) and Los Angeles City Administrative Code Section 10.47, the aforementioned EPC criteria and Local Bid Preference, approved by the Board of Water and Power Commissioners, Resolution No. 023-037, is hereby approved.

Sec. 8. In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15060(c)(2), an activity is not subject to CEQA if it will not result in a direct or reasonably foreseeable indirect physical change in the environment. The adoption of this ordinance will authorize the use of the competitive-sealed bid proposal method to let a contract, and will not result in any physical change in the environment. Therefore, this action is not subject to CEQA. However, the proposed Scattergood

Units 1 and 2 Green Hydrogen Ready Modernization project is subject to CEQA per Public Resources Code S 2100, et seq. As such, it is important to note that the Board has made no final determinations regarding the proposed project. The Board retains its full discretion to make a determination regarding the proposed project, including, but not limited to, the possible selection of an alternatively analyzed project or the selection of no project at all. The Board will review the CEQA analysis and make a determination pursuant to law. Bidders recognize and assume this risk. No contracts shall be awarded prior to full compliance with applicable CEQA requirements.

Sec. 9. Pursuant to Charter Section 1022, the services advertised for in this RFP are for expert services which require knowledge and skills that are not available within LADWP and can therefore be performed more economically and feasibly by independent contractors than by City employees.

Sec. 10. Notwithstanding any other ordinance, rule, or law of the City of Los Angeles to the contrary, the Board may award contracts using the aforementioned criteria pursuant to Sections 371(b) and 674 of the Charter of the City of Los Angeles as to the equipment and services described in Sections 1 and 6 for a term not to exceed five (5) years without further approval by the Los Angeles City Council.

Sec. 11. 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

MICHAEL N. FEUER, City Attorney

By  _____
MARK REUSCH
Deputy City Attorney

Date 9/2/22

File No. 22-0932

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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 _____