

ORDINANCE NO. _____

An ordinance authorizing the Department of Public Works to use the design-build project delivery method and the competitive sealed proposal selection process consistent with City Charter Section 371(b) for Measure W - Safe, Clean Water Program projects.

WHEREAS, the parcel tax authorized under the Measure W - Safe, Clean Water Program (SCWP) generates approximately \$36 million per year for the City through the municipal program, and Los Angeles County is administering the regional program, which provides competitive grant opportunities for additional stormwater projects;

WHEREAS, the goal of the SCWP is to use the parcel tax to support multi-benefit stormwater projects and programs that improve water quality, increase water supply, and provide community benefits. These projects also will support access to local jobs and help meet environmental justice objectives for the City;

WHEREAS, to ensure that the City is implementing SCWP projects to support compliance with the regulatory requirements and the pending total maximum daily load compliance milestones, use of the most efficient and appropriate project delivery methods is imperative;

WHEREAS, subject to all City approvals, the Department of Public Works - Bureau of Sanitation (LASAN) intends to establish a pre-qualified on-call design-build contract list with qualified contractors, which will be managed by LASAN, for use on SCWP projects;

WHEREAS, to encourage broader contractor participation on this on-call design-build contract list and subject to the approval of the Board of Public Works, LASAN will issue additional requests for qualifications for further contractor participation on this on-call list and will do so both approximately one-year after the on-call contracts are first executed, and then again in advance of any extension or amendment of these on-call contracts;

WHEREAS, Section 371(b) of the Los Angeles City Charter permits the award 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 project delivery when justified by the type of project and approved by the contracting authority;

WHEREAS, the City Council desires to authorize the Department of Public Works to use the competitive sealed proposal selection process and the design-build project delivery method for SCWP projects; and

WHEREAS, the purpose of this ordinance is to establish criteria for the award of contract Task Orders pursuant to a competitive sealed proposal method, and authorize

the use of the design-build delivery method for contract Task Orders between the City of Los Angeles (City) Department of Public Works and the selected contractors for both design and construction services related to the SCWP;

WHEREAS, establishing a pre-qualified on-call design-build contract list with qualified contractors, managed by the Department of Public Works - Bureau of Sanitation (LASAN), will allow the City to solicit competitive Task Order proposals and to award contract Task Orders for the design and construction of SCWP projects in a cost-effective manner;

WHEREAS, issuing Task Orders from a pre-qualified on-call list also significantly reduces the overall project delivery schedule, including by using the design-build delivery for these projects; and

WHEREAS, the award of Task Orders through a competitive sealed proposal process will be subject to the following parameters: (1) each Task Order will be for a maximum limit of \$20 million, adjusted annually based on the Consumer Price Index, which includes both the design and construction, unless City Council approval is provided for a project that exceeds this ceiling; and (2) each Task Order shall be for a project included in LASAN's Watershed Investment Strategic Plan, unless approved by the Measure W Administrative Oversight Committee.

NOW, THEREFORE,

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

Section 1. The Department of Public Works may use the competitive sealed proposal selection process as provided herein and the design-build project delivery method to award contract Task Orders from pre-qualified on-call design-build contractors for SCWP projects that meet the following parameters: (1) the project cost may not exceed \$20 million, adjusted annually based on the Consumer Price Index, which includes both the design and construction, unless City Council approval is provided for a contract Task Order that exceeds this ceiling; and (2) the project is included in Department of Public Works, Bureau of Sanitation's Watershed Investment Strategic Plan, unless approved by the Measure W Administrative Oversight Committee. Task Orders awarded following the competitive sealed proposal selection process shall be awarded by the Board of Public Works subject to the City Council's right of review under Charter Section 245. No Task Order 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. In order to utilize the competitive sealed proposal process for a SCWP project, 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. The Department of Public Works may engage in negotiations with proposers regarding their proposals to allow clarification and changes in a proposal. The Department of Public Works shall take adequate precautions to treat each proposer fairly.

Sec. 3. Task Order proposals shall be requested in a Task Order Solicitation pursuant to the terms of the pre-qualified on-call design-build contract list established by the Department of Public Works. Notice of a Task Order Solicitation for a SCWP project shall be given in writing or electronically to prospective contractors. Each Task Order Solicitation shall state the time and place at which the proposals will be received by the Department of Public Works. Any proposals received after the time and date specified shall not be considered.

Sec. 4. At a minimum, a Task Order Solicitation shall include: (a) a description of the services and items desired or the scope of work to be performed; (b) a statement of the 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, a Task Order Solicitation shall require that each proposer submit, at a minimum: (i) relevant experience; (ii) evidence of sufficient bonding capability; (iii) a listing of subcontractors or a selection plan for subcontractors that meets specified requirements and that is sufficient to ensure 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 the Department of Public Works deems relevant and appropriate.

Sec. 5. The evaluation criteria described in each Task Order Solicitation shall identify the evaluation factors and their relative importance to the award of the Task Order. The criteria shall include, but not be limited to, a means to measure how well a proposal meets desired performance requirements for the SCWP project, and how the lowest ultimate cost will be determined.

Sec. 6. Adequate precautions shall be taken to treat each proposer fairly and to ensure that information 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 publicly until a recommendation for Task Order award is made to the Board of Public Works.

Sec. 7. An award shall only be made to the proposer in response to a Task Order Solicitation whose final proposal is most advantageous to the City, except that the Board of Public Works may reject any or all proposals 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



ADENA M. HOPENSTAND
Deputy City Attorney

Date 1-19-2023

File No. _____

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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.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____