

ORDINANCE NO. _____

An ordinance authorizing the Board of Water and Power Commissioners to award an agreement pursuant to a competitive sealed proposal method, to permit negotiations relating to the engineering, procurement, and construction of the Encino Reservoir Floating Solar Pilot 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 Encino Reservoir Floating Solar Pilot 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 the award is made to the Board of Water and Power Commissioners (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 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 the 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:

1. a description of the services and items desired or the scope of work to be performed;
2. a statement of the evaluation criteria that will be used in evaluation of proposals; and

3. 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:
- (a) relevant experience;
 - (b) qualifications;
 - (c) approach;
 - (d) risk assessment;
 - (e) schedule;
 - (f) evidence of bonding capability;
 - (g) 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;
 - (h) updated financial and other relevant information sufficient to provide evidence of financial ability to complete the work;
 - (i) training plan; and
 - (j) 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 the desired performance requirements and how the lowest ultimate cost will be determined.

Sec. 7. Procedures applicable to discussions and negotiations with proposers shall be implemented, including safeguards to preserve confidential and proprietary information supplied by proposers, and other appropriate precautions to treat each proposer fairly. The Proposer's sealed cost proposal shall not be considered confidential nor proprietary information.

Sec. 8. Pursuant to Sections 371(a) & (b) of the Los Angeles City Charter (Charter), the aforementioned EPC criteria and Local Bid Preference, approved by the Board of Water and Power Commissioners, Resolution No. _____ is hereby approved.

Sec. 9. The Local Business preference set forth in Charter Section 371(a) applied pursuant to this ordinance shall be utilized solely for the purpose of evaluating and awarding the corresponding contract and shall not change in any way the price to be paid by LADWP for goods and services under the contract.

Sec. 10. Pursuant to Charter Section 1022, the services advertised for 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.

Sec. 11. Notwithstanding any other ordinance, rule or law of the City of Los Angeles to the contrary, the Board may award a contract using the aforementioned criteria and execute non-material corollary documents and amendments pursuant to Charter Sections 371(a), 371(b), 373, and 674 as to the equipment and services described in Sections 1 and 5 for a term not to exceed seven years without further approval by the Los Angeles City Council.

Sec. 12. 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 _____
MARK REUSCH
Deputy City Attorney

Date _____

File No. _____

[M:\Proprietary_OCC\DWP\MARK REUSCH\ORDINANCE - Encino Reservoir Floating Solar Pilot Project Final.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 _____