

#16
8.13.26

RECOMMENDATION APPROVED;
RESOLUTION 26-10769 ADOPTED;
BY THE BOARD OF HARBOR COMMISSIONERS

August 13, 2026

AM Klesges
AMBER M. KLESGES
Board Secretary



Executive Director's

Report to the
Board of Harbor Commissioners

DATE: JULY 28, 2026

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 26-10769 - ADOPT A RESOLUTION REQUESTING CITY COUNCIL TO CONSIDER AND APPROVE AN ORDINANCE AUTHORIZING THE BOARD OF HARBOR COMMISSIONERS TO USE ALTERNATIVE PROJECT DELIVERY SYSTEMS AND A COMPETITIVE SEALED PROPOSAL METHOD FOR CAPITAL IMPROVEMENT PROJECTS RELATED TO THE PROPOSED PIER 500 MARINE CONTAINER TERMINAL PROJECT

SUMMARY:

Staff recommends the Los Angeles Board of Harbor Commissioners (Board) adopt a resolution requesting the Los Angeles City Council (City Council) to adopt an ordinance authorizing the Board to authorize its Executive Director to utilize alternate project delivery systems, let contracts pursuant to a competitive sealed proposal method, and other related procurement and contracting tools for one or more of the procurement, pre-construction services, design, construction, finance, operations, maintenance, and other related services for capital improvements projects related to the proposed Pier 500 Marine Container Terminal Project (Pier 500 Project) at the Port of Los Angeles.

RECOMMENDATION:

It is recommended that the 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(f) and 2(m) of the Los Angeles City CEQA Guidelines;
2. Adopt a resolution requesting the City Council to adopt an ordinance authorizing the Board to authorize its Executive Director to utilize alternative project delivery systems for one or more capital improvement projects related to the proposed Pier 500 Project at Port of Los Angeles pursuant to a competitive sealed proposal method;
3. Find that the authorized alternative project delivery systems to be covered by the ordinance include, but are not limited to, construction manager-at-risk, design-build, progressive design-build, design-build-operate and maintain, design-build-finance-operate-maintain, or other forms of public-private partnerships, including pre-development agreements that could potentially result in the use of one or more alternative project delivery systems during the implementation phase (also known as the development phase) of such project;

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4. Find that the use of the alternate project delivery systems described above, a competitive sealed proposal method, and other related procurement and contracting tools for one or more of the procurement, pre-construction services, construction, finance, operations, maintenance and other related services for select capital improvement projects should be authorized based on operational need, cost, schedule, and technical aspects of the Pier 500 Project, and that awarding to the lowest responsive and responsible bidder for the Pier 500 Project is not practicable or advantageous;
5. Direct the Board Secretary to transmit the proposed ordinance to City Council for consideration and approval pursuant to Charter Section 371 of the Los Angeles City Charter (City Charter); and
6. Adopt Resolution No. 26-10769.

DISCUSSION:

Background

The City of Los Angeles Harbor Department (Harbor Department) is contemplating engaging contractor(s) to perform pre-development work for the potential development of the Pier 500 Project. The contractor(s) would potentially enter into an agreement or amend the initial pre-development agreement to allow for the implementation of the Pier 500 Project. Under the agreement, the contractor(s) would provide support in generating the project definition, establishing design parameters and potential approaches to phasing, carrying out feasibility studies, developing a plan of finance, and other related pre-development activities.

As proposed, Pier 500 would be a 200-acre site with two new berths and approximately 3,000 linear feet of new available wharf. Located in natural deep water on the southern tip of Terminal Island, the project site would greatly increase port cargo efficiency, as it would allow for bigger, next generation cargo ships (Transmittal 1).

The proposed Pier 500 site lies just south of Pier 400, currently the largest container terminal at the Port of Los Angeles. For decades, the Harbor Department has remained forward-looking, exploring proposed plans to add cargo capacity as warranted by increased demand. For this reason, the Harbor Department has identified a submerged site of 124 acres, infrastructure that was added during the construction of the adjacent Pier 400 before it was completed in 2002. The proposed Pier 500 Project would allow the Harbor Department to leverage this existing asset.

The Harbor Department will address all necessary environmental assessments as required under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The entire proposed Pier 500 Project—from pre-

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development, entitlement procurement, and environmental review to full build-out and operation—is expected to cost an estimated \$5.4 billion and take approximately 10 years to complete. The proposed ordinance is required so the Harbor Department may advance its efforts on the proposed development of the project. The City of Los Angeles adopted a similar ordinance in 2000 to execute the Pier 400 project.

Potential Project Delivery Systems

Section 371 of the Los Angeles City Charter requires that all contracts, other than certain enumerated exceptions, "shall be let to the lowest responsive and responsible bidder." Compliance with this Section has resulted in use of the traditional design-bid-build delivery method for most projects. However, experience and past performance is not a significant factor in such a selection process. To overcome these disadvantages, City Charter Section 371 (b) authorizes the use of a competitive sealed proposal method to procure contractors through a selection process which allows the contracting authority to consider non-price evaluation criteria (e.g., qualifications, experience and other technical factors important to the project) when selecting a proposer.

Some of the potential project delivery systems that could be used to deliver one or more of the Pier 500 Project components include:

- **Design-Bid-Build (DBB)** - Under DBB, the Harbor Department prepares design documents, project plans, and specifications. These documents are incorporated in the Request for Bids which are issued to potential firms to solicit competitive bids. The Harbor Department then conducts an administrative and technical review of the submissions and ultimately awards a contract to the lowest responsive and responsible bidder for construction of the project.
- **Construction Manager at Risk (CMAR)** - Under CMAR, the Harbor Department would select a construction manager during the design development process to provide pre-construction services as a member of the project development team. The Harbor Department would also separately contract with a design consultant to complete the project design and provide design support during construction. The selected CMAR assists in design review, facilitates constructability reviews, participates in design packaging phasing and scheduling decisions, cost estimating, other market analysis as appropriate, and then executes construction of the project as the general contractor. The construction manager is considered "at risk" to deliver the project at an agreed maximum guaranteed price. The construction manager is responsible for costs that exceed the guaranteed maximum price and takes on significant risk for the project's cost, schedule, and construction quality.
- **Design-Build (DB)** - Under DB, the Harbor Department would select a single entity to complete the design and construction of a project. The design-builder is selected following project definition, based on qualifications, which dictate performance

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requirements and criteria for the finished project. In DB scenarios, the Harbor Department retains control by documenting the criteria to which the design and construction will be measured for project acceptance. Under DB, the responsibility and associated risks related to the design of the project shifts from the Harbor Department to the Design-Builder.

- **Progressive Design-Build (PDB)** – PDB is a variant of DB where the Harbor Department would select a design-builder based on various criteria, including qualifications, who would then work with the Harbor Department on advancing the design and agree on a price for completing the design and construction of a project.
- **Design-Build-Operate-Maintain (DBOM)** - DBOM is a variant to DB that requires the single contracting entity to also be responsible for the operations and maintenance of specified components of the delivered asset for an additional term of years (to be specified by the Owner). For Pier 500, such operations would be limited to operating the underlying infrastructure (e.g., sewer, electrical, etc.).
- **Design-Build-Finance-Operate-Maintain (DBFOM)** – DBFOM is a variant to DBOM that requires the single contracting entity to also finance some or all of the project costs. This delivery system is typically used for large infrastructure projects. Similar to DBOM, for Pier 500, operations would be limited to operating the underlying infrastructure (e.g., sewer, electrical, etc.).
- **Public-Private Partnerships (P3)** - This is a collaborative agreement between a public agency and a private sector entity. The Harbor Department would typically select a P3 developer based on various criteria, including qualifications. The P3 developer provides a public service or project and assumes substantial financial, technical, and operational risk. P3s can take multiple forms, including but not limited to PDA and DBFOM agreements.
- **Pre-Development Agreement (PDA)** – Pursuant to a PDA process, the Harbor Department would select a contractor(s) based on various criteria, including qualifications, who would enter into a pre-development agreement and work with the Harbor Department to perform early-stage project development work, including planning, preliminary design and cost analysis, followed by a process to agree to the terms for the implementation phase of such agreement, which could utilize one or more of the delivery methods described in this report.

In each of the above project delivery systems, the Harbor Department could additionally require that bidders provide financing for the construction of the project (e.g., a design-build-finance-operate-maintain agreement (DBFOM)). Under these scenarios, the terms of the contract would determine how and when the Harbor Department would repay the bidder's investment, along with payment for design and construction services. The Harbor

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Department could also utilize other forms of public-private partnerships (P3), including revenue risk and availability payment-based models, to deliver the Pier 500 Project.

Alternative Project Delivery Systems for the Project

As has been previously stated, use of the alternative project delivery systems described above are authorized under City Charter section 371(b).

The traditional delivery method of DBB may not be practical or advantageous due to the complex nature and cost of the Pier 500 Project. The use of the alternative project delivery systems described above can expedite a project by allowing project planning, design, pre-construction, and construction to occur simultaneously, and potentially leveraging private sector expertise as well as available funding and financing tools, and private capital. Authorizing the use of such delivery methods will allow staff to develop more robust and responsible approaches and strategies when encountering these challenges including placing risk on the entities most capable of minimizing and mitigating the risks.

In addition, the construction and operation of the Pier 500 Project presents unique risks and challenges. Container terminals, by their nature, are complex systems that include train tracks, gantry cranes, and control systems. Considering this complexity, the project size and other factors, the Harbor Department may ultimately determine to deliver the Pier 500 Project through multiple, separate contracts. In addition, a selected contractor(s) could potentially be retained for several years to operate and maintain the new container terminal or one or more components thereof, provided that such operations would be limited to operating the underlying infrastructure (e.g., sewer, electrical, etc.). For these reasons, staff requests the Board approve the use of CMAR, DB, PDB, DBOM, or DBFOM, PDA, P3, or other alternate project delivery systems, where justified as practical and necessary, through the adoption of a City ordinance subject to subsequent approval of each contract by the Board.

Selection Methods - Competitive Sealed Proposals

Under the typical selection process using the DBB delivery method, the Harbor Department prepares the design documents, project plans, and specifications. These documents are incorporated into the request for proposals which are issued to potential firms for competitive bids. The Harbor Department then conducts an administrative review of the submissions and ultimately awards a contract to the lowest responsive and responsible bidder for the construction of the project. Experience and past performance are not factored into the selection under this process.

As an alternative, City Charter section 371(b) authorizes the use of a competitive sealed proposal method with the DBB and other alternative delivery systems. This allows the Harbor Department to evaluate and consider not only price, but also non-price factors, such as experience, qualifications, design and construction approach, staffing

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organization, resource capacity, project controls, safety, and other critical criteria necessary to successfully deliver this unique project. Considering the special nature of the projects included in the Pier 500 Project, and staff's desire to identify the best contractor(s) and utilize one or more alternative project delivery system approaches for the procurement, pre-construction services, design, construction, finance, operation, and maintenance of the Pier 500 Project or components thereof, Harbor Department staff recommends that a competitive sealed proposal method be utilized, where appropriate and responsible.

Prior to using a competitive sealed proposal method, City Charter section 371(b) requires that the City Council must first adopt an ordinance authorizing such use in relation to one or more specific projects. The Harbor Department proposes that the City Council consider and adopt an ordinance allowing the Executive Director to use the CMAR, DB, PDB, DBOM DBFOM, PDA, P3 or other alternate methods and a competitive sealed proposal method for any appropriate capital improvement projects related to the Pier 500 Project (Transmittal 2).

Changes to Certain Procurement and Contracting Requirements

Certain procurement and contracting requirements suitable for traditional DBB procurements and delivery require modification to efficiently and effectively use the alternative delivery systems and the competitive sealed proposal method described above. The Harbor Department proposes that the City Council amend the Administrative Code and otherwise authorize the Harbor Department to use the procurement and contracting tools described by the draft ordinance (Transmittal 2).

The modifications requested include:

- A change to the application of the City's subcontractor listing law for projects delivered under the authority of the requested ordinance. This change will require that a contractor list all subcontractors and their respective scopes of work to the extent they are known at the time of the contractor's bid or proposal submission. This provision protects all subcontractors known at the time of the bid or proposal, but still allows for the contractor to subcontract additional scopes of work throughout the life of the project, as is appropriate for the alternative project delivery systems authorized by the requested ordinance.
- A provision that allows the Harbor Department to set the amount of bidder's guarantee to enter into the proposed contract if awarded, and in addition to a proposal bond or cashier's check, allow for the form of that guarantee to also include a letter of credit. This provision provides greater flexibility for the bidder to meet the proposal obligation at greater cost effectiveness, without compromising the Harbor Department's needed protection. It also provides greater flexibility for the Harbor Department to set the amount of the check, bond or letter of credit

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provided by proposers proportional to the risks, costs, and complexity of each respective Pier 500 Project.

- Notwithstanding any law or other requirements to the contrary, a provision that allows the Harbor Department to set the amount and form of payment and performance bonds, and to determine which entities may provide such bonds. This modification acknowledges the limited market capacity to provide one-hundred percent payment and performance bonds for projects exceeding \$1 billion. The provision provides the Harbor Department with the ability to set the bonds at a level that adequately protects the City's interests without placing an unreasonable burden on the bidder to obtain an excessive bond, the cost of which is ultimately reflected in the bidder's pricing. The provision also provides the Harbor Department with the authority to forgo requiring such bonds for contracts or phases of contracts that do not include construction work.
- A provision authorizing the Harbor Department to allow compliance with applicable licensing requirements at contract execution or at financial close as determined by the Harbor Department in its sole discretion. This authority is particularly important in the alternative delivery environment in which highly specialized, multi-discipline, innovative teams are forming as new entities to compete for individual projects. This provision minimizes the administrative burden on proposer teams by imposing compliance with licensing requirements only on the winning bidder. By adjusting the timing of these administrative requirements, the Harbor Department can encourage increased competition, which can result in better pricing while ensuring no work is performed without required licenses.
- Notwithstanding any law or other requirement to the contrary, a provision that establishes that interest shall accrue at the rate of 7 percent per annum on payments due and owing but not paid on contracts related to the Pier 500 Project. This provision is more equitable than existing statutory requirements as interest on outstanding payments accrues at the same rate for both Harbor Department and contractors.

Without the requested amendments and authorization, the Harbor Department may be required to follow provisions that conflict with industry standards for the alternative delivery methods described in this report. Conflicting requirements may undermine the efficiency and effectiveness of these alternative project delivery systems. Conflicting requirements also may create legal liability where a contractor's obligations are unclear or infeasible to be met under the alternative project delivery system chosen by the Harbor Department.

Action Requested

Staff recommends that the Board adopt a Resolution requesting the City Council to adopt an ordinance allowing the Board to authorize its Executive Director to use the alternative

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project delivery systems described in this report, a competitive sealed proposal method, and other related procurement and contracting tools for capital improvement projects related to the Pier 500 Project.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of an ordinance allowing for alternate project delivery systems and a competitive sealed proposal method for the proposed Pier 500 Project, which is an administrative activity and adoption of an ordinance that does not result in impacts to the physical environment. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) and 2(m) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Adoption of the proposed resolution requesting that City Council approve the proposed ordinance will enable the Harbor Department to authorize its Executive Director to use the alternative project delivery systems described in this report and a competitive sealed proposal method to procure contracts for delivery of one or more capital improvement projects related to the proposed Pier 500 Project. As an administrative activity, there is no cost associated with the adoption of this proposed resolution. If approved, funding for the Pier 500 Project will be requested in future board actions.

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CITY ATTORNEY:

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

TRANSMITTALS:

1. Site Map
2. Proposed Ordinance

FIS Approval: *MM*
CA Approval: *JK*

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