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**CARMEN A. TRUTANICH**  
City Attorney

REPORT NO. R 1 3 - 0 1 2 8

MAY 0 9 2013

REPORT RE:

**DRAFT ORDINANCE FOR THE SYLMAR FILTERS REPLACEMENT PROJECT  
REQUESTING THE LOS ANGELES CITY COUNCIL TO ESTABLISH DESIGN-BUILD  
CRITERIA PURSUANT TO SECTION 371 OF THE CITY CHARTER**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance establishes criteria for the Board of Water and Power Commissioners to: (1) award a design-build contract for the Sylmar Alternating Current (AC)/Direct Current (DC) Filters Replacement Project; (2) permit negotiations to allow clarifications and changes to the proposals pursuant to a competitive sealed proposal method; and (3) award a design-build contract for equipment and construction, for exclusive terms not to exceed four years, to a bidder with the lowest ultimate cost, as determined by LADWP.

The project will entail the advertisement of one Request for Proposal with two phases. Phase One of the agreement is for the design and acquisition of four AC filter banks and two DC filter banks; the upgrade or replacement and commissioning of the existing High Voltage Direct Current (HVDC) control/protection system; the acquisition of technical services; and the testing and commissioning of the new AC and DC filter equipment. Phase Two of the agreement is the option to purchase the full or partial construction of the four AC and two DC filter banks utilizing the design of the filter banks and all equipment procured under Phase One of the agreement.

### Background

The proposed project is being implemented pursuant to an increase in failures at the filter banks of Sylmar Converter Stations East and West, resulting in several fire incidents. The existing filter banks were built in the 1970's and 1980's, and were originally slated for replacement in the Sylmar Replacement Project in 2004; however, due to budget constraints, the filter bank replacement was eliminated from the project. The reliability of Sylmar Converter Station will be severely impacted if more than one filter bank is out of commission at a time. This project will be constructed in conjunction with the Celilo Converter Station Replacement Project by the Bonneville Power Administration in order to minimize the system outage duration and financial impact of the Pacific DC Intertie.

LADWP proposes to demolish the existing filter banks at Sylmar Converter Stations East and West, and to construct four new AC and two new DC filter banks at the Sylmar Converter Station East. In addition, the high voltage DC control/protection system will be upgraded or completely replaced to accommodate the new filter banks.

### Charter Compliance

This ordinance is transmitted for your approval pursuant to Charter Sections 371(b), 373 and 674(a)(1). Pursuant to Los Angeles Charter Section 371(b), a vote of at least two-thirds of the City Council approving the contract selection criteria is required to award a contract using a competitive sealed proposal method. Pursuant to Charter Section 373, no contract may be let for a period of longer than three years without prior approval of the City Council. Moreover, pursuant to Charter Section 674(a)(1), the Board of Water and Power Commissioners shall have the authority, subject to approval by ordinance, to contract with any private or public corporation for the construction, ownership, operation and maintenance of facilities for the generation, transformation and transmission of electric energy.

### CEQA Determination

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the Sylmar Filters Replacement Project is exempt pursuant to the General Exemption described in CEQA Guidelines Section 15031(b).

### Recommendation

The City Administrative Officer (CAO) analyzed and recommended approval of the Board Resolution and Council consideration of the ordinance. The Board Resolution was approved by the Board of Water and Power Commissioners. A copy of the CAO report and the Board Resolution are also provided for your review.


Council Rule 38 Referral

This draft ordinance has been approved by the Board of Water and Power Commissioners pursuant to Council Rule 38.

If you have any questions regarding this matter, please contact Deputy City Attorney Eric Rosenblatt at (213) 367-4619. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By   
PEDRO B. ECHEVERRIA  
Chief Assistant City Attorney

PBE:ER:ff  
Transmittal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance authorizing the Board of Water and Power Commissioners to award one agreement with two phases pursuant to a competitive sealed proposal method, to permit negotiations relating to the procurement, design, engineering and construction of the Sylmar AC/DC Filters Replacement Project (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 one agreement with two phases, which may be awarded in whole or in part, on a competitive sealed proposal basis, as provided herein, for the Sylmar Alternating Current (AC)/Direct Current (DC) Filters Replacement Project.

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 precaution to treat each proposer fairly.

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 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. Pursuant to Sections 371(a) and (b) of the Charter of the City of Los Angeles, the following design-build criteria, approved by the Board of Water and Power Commissioners, Resolution No. 013-187, are hereby approved.

Sec. 6. Phase One of the agreement is for the acquisition of four AC filter banks and two DC filter banks; the upgrade or replacement, and commissioning of the existing High Voltage Direct Current (HVDC) control/protection system; the acquisition of technical services; and the testing and commissioning of the new AC and DC filter equipment. The design-build criteria for this contract award shall be as follows:

- (a) Qualifications – Bidder's proposal shall contain at a minimum the following:

- (i) Experience in designing, fabricating and delivering similar AC and DC filter banks and HVDC Control/Protection System Upgrade for comparable projects.
  - (ii) Experience in providing technical services to support erection and commissioning of the equipment.
  - (iii) Experience in upgrading or replacement, testing and commissioning the HVDC Control/Protection System for comparable projects.
  - (iv) Financial, labor, material procurement and equipment resources available for the Project.
- (b) Bidder's proposal shall provide proposed contract terms and conditions, and commercial factors for the Project including:
- (i) Evaluated cost, proposal prices, estimated lump sum cost, schedule of payments, and the time value of money.
  - (ii) Capability and resources available to meet schedule requirements.
  - (iii) Quality assurance/control plan and program to ensure the quality of the equipment fabrication and the quality of work.
  - (iv) Insurance, performance and labor and material bond requirements to manage the risk.
  - (v) Liquidated damages for critical items such as the milestone schedule and guarantees.
  - (vi) Warranties and guarantees to make corrections due to defects and failures of components to function according to requirements.
  - (vii) Selection plan for subcontractors, including a list of prospective Minority/Women/Other Business Enterprises for use on the Project and to ensure that fair practices are used in such selection.
  - (viii) Safety and security programs to meet federal, state and local safety and security requirements.
  - (ix) Authorized auditors to audit contractor, contractor's subcontractors, and suppliers.
  - (x) Authorized inspectors to perform examinations, inspections and tests of equipment material, and workmanship.
- (c) Bidder's proposal shall provide proposed technical factors including:
- (i) Scope of Work for the Project.
  - (ii) Schedule for the Project.
  - (iii) Methods to demonstrate that the proposed equipment and materials meet all contractual requirements.
  - (iv) Fabrication plan and schedule to include qualified personnel and equipment for the Project.
  - (v) Regulatory compliance to meet all local, state and federal requirements.
  - (vi) Demonstration of ability to design and fabricate similar equipment.

- (vii) Implementation of design and fabrication monitoring programs during all phases of the Project.
  - (viii) Methods to incorporate design modifications and field changes and to provide accurate and timely drawings.
- (d) Bidders shall submit the following:
- (i) A sealed cost proposal; and
  - (ii) A proposal security in the form of a cash deposit or proposal bond not less than 10% of the bid amount of the contract, as established by each proposal. Said deposit or bond shall be forfeited if a proposal is accepted but the responder fails to execute the contract; and
  - (iii) Other relevant information.
- (e) Procedures applicable to discussions and negotiations with bidders, including safeguards to preserve confidential and proprietary information supplied by bidders, and other appropriate precautions to treat each bidder fairly. Bidder's sealed cost proposal shall not be considered confidential nor proprietary information after recommendation for award is made public.
- (f) Provisions for indemnifying and holding harmless the City of Los Angeles, acting by and through LADWP, with respect to protests relating to solicitation, negotiation or award of the contract.
- (g) LADWP's other standard contract terms and conditions, including, but not limited to, the right to reject all bids, shall apply.

Sec. 7. Phase Two of the agreement is the option to purchase the full or partial construction of the four AC and two DC filter banks utilizing all procured equipment and the design of the filter banks supplied under Phase One of the agreement. The construction criteria for this contract award shall be as follows:

- (a) Qualifications – Bidder's proposal shall contain at a minimum the following:
- (i) Experience in organizing, scheduling, managing and constructing comparable projects.
  - (ii) Experience in commissioning and testing comparable projects.
  - (iii) Financial, labor, material procurement and equipment resources available for the Project.
- (b) Bidder's proposal shall provide proposed contract terms and conditions, and commercial factors for the Project, including:

- (i) Evaluated cost, proposal prices, estimated lump sum cost, schedule of payments, and the time value of money.
  - (ii) Capability and resources available to meet schedule requirements.
  - (iii) Quality assurance/control plan and program to ensure the quality of the equipment fabrication and the quality of work.
  - (iv) Insurance, performance and labor and material bond requirements to manage the risk.
  - (v) Liquidated damages to critical items such as the milestone schedule and guarantees.
  - (vi) Warranties and guarantees to make corrections due to defects and failures of components to function according to requirements.
  - (vii) Selection plan for subcontractors, including a list of prospective Minority/Women/Other Business Enterprises for use on the Project and to ensure that fair practices are used in such selection.
  - (viii) Safety and security programs to meet federal, state and local safety and security requirements.
  - (ix) Authorized auditors to audit contractor, contractor's subcontractors, and suppliers.
  - (x) Authorized inspectors to perform examinations, inspections and tests of equipment, material, and workmanship.
- (c) Bidder's proposal shall provide proposed technical factors including:
- (i) Scope of Work for the Project.
  - (ii) Schedule for the Project.
  - (iii) Methods to demonstrate that the proposed equipment and materials meet all contractual requirements.
  - (iv) Construction plan to include qualified personnel and construction equipment for the Project.
  - (v) Regulatory compliance to meet all local, state and federal requirements.
  - (vi) Demonstration of ability to construct the proposed equipment to function as stated within the Project Scope of Work.
  - (vii) Implementation of design, fabrication, and construction monitoring programs during all phases of the Project.
  - (viii) Methods to incorporate design modifications and field changes and to provide accurate and timely as-built drawings.
- (d) Bidder shall submit the following:
- (i) A sealed cost proposal; and
  - (ii) A proposal security in the form of a cash deposit or proposal bond not less than 10 percent of the bid amount of the contract, as established by each proposal. Said deposit or bond shall be forfeited if a proposal is accepted but the responder fails to execute the contract; and
  - (iii) Other relevant information.

- (e) Procedures applicable to discussions and negotiations with bidders, including safeguards to preserve confidential and proprietary information supplied by bidders, and other appropriate precautions to treat each bidder fairly. Bidder's sealed cost proposal shall not be considered confidential nor proprietary information after recommendation for award is made public.
- (f) Provisions for indemnifying and holding harmless the City of Los Angeles, acting by and through LADWP, with respect to protests relating to solicitation, negotiation or award of the contract.
- (g) LADWP's other standard contract terms and conditions, including, but not limited to, the right to reject all bids, shall apply.

Sec. 8. For the proposed agreement described in Sections 6 and 7, a Local Business Preference shall be applied pursuant to Charter section 371 (a) and Los Angeles Administrative Code Section 10.47. A proposer qualified as a Local Business shall be awarded additional points to the proposer's final score such that the score awarded to the proposer is increased by 8% of the total possible evaluation points. To be qualified as a Local Business, a proposer must satisfy all of the following criteria, as certified by the Designated Administrative Agency, the Los Angeles Department of Public Works, Bureau of Contract Administration:

- (a) The business must occupy space within the County of Los Angeles. The business must submit proof of occupancy to the City by supplying evidence of a lease, deed or other sufficient evidence demonstrating that the business is located within the County.
- (b) The business must submit proof to the LADWP demonstrating that the business is in compliance with all applicable laws relating to licensing and is not delinquent on any Los Angeles City or Los Angeles County taxes.
- (c) The business must submit proof to the LADWP demonstrating one of the following:
  - (i) That at least 50 of full-time employees of the business perform work within the boundaries of the County at least 60% of their total, regular hours worked on an annual basis; or
  - (ii) That at least half of the full-time employees of the business work within the boundaries of the County at minimum of 60% of their total, regular hours worked on an annual basis; or
  - (iii) That the business is headquartered in the County. For purposes of the Local Business Preference, the term "headquartered" shall mean that the business physically conducts and manages all of its operations from a location in Los Angeles County.



A business that has not yet established operations in Los Angeles and therefore is unable to qualify as a Local Business may, as an alternative, qualify as a Local Business on a provisional basis if the proposer satisfies all of the following criteria, as certified by the Designated Administrative Agency:

- (a) The proposed contract between the proposer and the LADWP involves consideration valued at no less than \$1 million and has a term of no less than three years;
- (b) The proposer can demonstrate that the proposer is a party to an enforceable, contractual right to occupy commercial space within the County and its occupancy will commence no later than 60 days after the date on which the contract with the LADWP is executed. The proposer must demonstrate proof of occupancy or an enforceable right to occupancy in the County of Los Angeles by submitting to the LADWP a lease, deed or other sufficient evidence; and
- (c) The proposer can demonstrate that, before the proposer is scheduled to begin performance under the contract with the LADWP, the proposer qualifies as a Local Business, by submitting proof to the LADWP that it meets the criteria of Subsection C of Section 10.47.2 of the Los Angeles Administrative Code. The proposer must demonstrate proof of ability to satisfy the requirements of Section 10.47.2(C) by submitting to the LADWP a business plan or other evidence deemed sufficient by the Designated Administrative Agency.

A business that does not qualify as a Local Business, but that identifies a qualifying Local Subcontractor to perform work under the contract, shall be awarded a preference of up to 5%, provided the Local Subcontractor satisfies the criteria enumerated in Sections 10.47.2 and 10.47.7 of the Los Angeles Administrative Code. The score awarded to a proposer will be increased by 1% for every 10% of the total cost of the proposed work under the contract to be performed by a Local Subcontractor, provided that each Local Subcontractor, the work of the Local Subcontractor and the cost of the work of the Local Subcontractor are specified clearly in the proposal. The maximum preference possible is 5%.

The preferences authorized under the Local Business Preference Program shall be subject to the following additional requirements:

- (a) Preferences awarded for services shall be applied only if the services are provided directly by the Local Business or Local Subcontractor using employees whose exclusive, primary working location is in Los Angeles County;
- (b) Preferences awarded for equipment, goods or materials shall be applied only if the Local Business or Local Subcontractor substantially acts as the

supplier or dealer, or substantially designs, manufactures or assembles the equipment, goods or materials, at a business location in Los Angeles County. As used in this Section, "substantially" means not less than two-thirds of the work performed under the contract must be performed, respectively, by the Local Business or Local Subcontractor;

- (c) The maximum bid or proposal preference shall not exceed \$1 million for any bid or proposal;
- (d) Preferences applied pursuant to the Local Business Preference Program shall be utilized solely for the purpose of evaluating and selecting the Contractor to be awarded the corresponding contract. Except as provided in Los Angeles Administrative Code Section 10.47.9, the preference points shall in no way lower or alter the Contract price, which shall in the case of a proposal reflect the amount proposed by the Local Business in the proposal before the application of preference points;
- (e) This Section neither creates a right to receive a proposal preference, nor the duty to grant a proposal preference;
- (f) The LADWP may, at any time before the award of a contract, determine that it is not in the LADWP's best interest to grant a proposal preference and award the contract to the proposer eligible for the award without consideration of the provisions of this Section; and
- (g) This Section applies only to contracts that involve the expenditure of funds entirely within the City's control and shall not apply to contracts that involve the expenditure of funds that are not entirely within the City's control, such as state and federal grant funds, that due to legal restrictions prohibit its application.

Should a Local Business fail to maintain its Local Business status:

- (a) If for any reason the Contractor fails to qualify as a Local Business for more than 60 days during the entire term of the contract, the LADWP shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the Proposal Preference.
- (b) If for any reason the Local Subcontractor, providing the basis for a Local Subcontractor Preference, is unable to, or does not, perform the work under the contract, the Contractor shall, within 60 days, replace that Local Subcontractor with another Local Subcontractor. If the Contractor is unable to replace the Local Subcontractor specified in the contract with another Local Subcontractor within 60 days, the LADWP shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the Proposal Preference.

- (c) For purposes of determining the value of the Proposal Preference in subsections (a) and (b), above, the LADWP may withhold or recover the difference in proposal price between the Contractor's proposal and the proposal of the next most competitive proposer that did not receive the award of the contract by the LADWP. In addition, the LADWP may withhold or recover any other additional cost or detriment to the City from the Contractor's failure to maintain the Contractor's Local Business status for more than 60 days during the term of the contract.
- (d) If a Contractor fails to maintain the Contractor's Local Business status for more than 60 days during the term of the contract, as specified in Subsections (a) and (b), above, the failure is subject to the recording and reporting requirements of Articles 13 and 14, Chapter 1, Division 10, of the Los Angeles Administrative Code.
- (e) The remedies available to the LADWP under this Section are cumulative to all other rights and remedies available to the LADWP.

Sec. 9. Notwithstanding any other ordinance, rule or law of the City of Los Angeles to the contrary, the Board of Water and Power Commissioners may award a contract using the aforementioned criteria, pursuant to Sections 371(a), 371(b), 373 and 674 of the Charter of the City of Los Angeles and Section 10.47 of the Los Angeles Administrative Code, as to the equipment and services described in Sections 6 and 7, above, for a term not to exceed four years, for an estimated amount of \$140 million, without further approval by the Los Angeles City Council.

Sec. 10. 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 City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this 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, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Eric Rosenblatt by EOC

ERIC ROSENBLATT  
Deputy City Attorney

Date MAY 09 2013

File No. \_\_\_\_\_

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA  
*Mayor*

Commission  
THOMAS S. SAYLES, *President*  
ERIC HOLOMAN, *Vice President*  
RICHARD E. MOSS  
CHRISTINA E. NOONAN  
JONATHAN PARFREY  
BARBARA E. MOSCHOS, *Secretary*

RONALD G. NICHOLS  
*General Manager*

March 20, 2013

The Honorable City Council  
City of Los Angeles  
Room 395, City Hall  
Los Angeles, California 90012

Honorable Members:

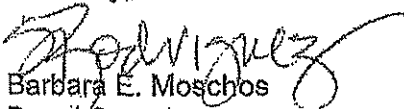
Subject: Adoption by Ordinance to Establish Design-Build Criteria of the Sylmar Filters Replacement Project

Pursuant to Charter Section 371(b), 373 and 674, enclosed for approval by your Honorable Body is Resolution No. 013 187, adopted by the Board of Water and Power Commissioners on March 5, 2013, approved as to form and legality by the City Attorney, which recommends to the Los Angeles City Council adoption by Ordinance to Establish Design-Build Criteria of the Sylmar Filters Replacement Project Pursuant to Section 371(b) of the City Charter.

As directed by the Board, transmitted to you are supporting documents.

If there are any questions regarding this item, please contact Ms. Winifred Yancy, Manager of Intergovernmental Affairs and Community Relations, at (213) 367-0025.

Sincerely,

*for*   
Barbara E. Moschos  
Board Secretary

BEM:sar

Enclosures: LADWP Resolution  
Board Letter  
CAO Report

(Ordinance to be sent under separate cover)

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c/enc: Mayor Antonio Villaraigosa  
Councilmember Jose Huizar, Chair, Energy and the Environment Committee  
Gerry F. Miller, Chief Legislative Analyst  
Miguel A. Santana, City Administrative Officer  
Rafael Prieto, Legislative Analyst, CLA  
William R. Koenig, Chief Administrative Analyst  
Winifred Yancy

**WHEREAS**, the Pacific Intertie DC (PDCI) Transmission Facilities Agreements between the City and Southern California Edison (Contract No.10078), the City of Burbank (Contract No.10129), the City of Glendale (Contract No.10128), and the City of Pasadena (Contract No.10130), herein referred to as the PDCI Participants, stipulates that the Los Angeles Department of Water and Power (LADWP) has the right and duty to operate, maintain and make additions, betterments and necessary replacements to the DC Transmission Facilities at Sylmar DC Converter Stations; and

**WHEREAS**, the AC and DC Filters equipment built in the 1970's and 1980's were not replaced by the Sylmar Replacement Project in 2004 due to budget constraints, and the AC Filter components have failed by fire flare ups in the last three consecutive years; and

**WHEREAS**, LADWP intends to oversee the acquisition, design, engineering, procurement, fabrication, construction, and all associated financing costs of the Sylmar AC/DC Filters Replacement Project at an estimated cost of \$140 Million; and

**WHEREAS**, the Sylmar AC/DC Filters Replacement Project includes the removal of all filters and associated equipment at Sylmar Converter Station West and East with the installation of four AC and two DC Filter Banks at Sylmar Converter Station East and the upgrade or replacement of the existing High Voltage DC(HVDC) control/protection system; and

**WHEREAS**, the Project goals are to provide improved efficiency and reliability, reduce operation costs, simplify maintenance, and provide safer, more integrated system operation in one facility by utilizing modern reactive power supply equipment with smaller space requirements and lower failure rates; and

**WHEREAS**, per the Pacific Intertie DC (PDCI) Transmission Facilities Agreements, the PDCI Participants will reimburse LADWP a total of 60 percentage of the final project cost; and

**WHEREAS**, LADWP desires to advertise one Request for Proposal with one agreement containing two phases, which may be awarded in whole or in part at LADWP's discretion, using the competitive sealed proposal method that permits negotiations after proposals have been submitted to allow clarifications and changes to the proposal; and

**WHEREAS**, Phase one of the Request for Proposal will be the engineering design and procurement of the AC and DC Filter Banks equipment; and the upgrade or replacement, testing and commissioning of the existing Control/Protection System and the new AC and DC filter equipment; and Phase two will be for the option to purchase full or-partial construction of all equipment procured under Phase one; and

**WHEREAS**, Section 371(b) of the Charter of the City of Los Angeles provides that as an alternative to an award pursuant to open and competitive bidding, a contract may be let pursuant to a competitive sealed proposal method, in accordance with criteria adopted by a two-thirds vote of the Council. The competitive sealed proposal method may permit negotiations in accordance with criteria as established by the Ordinance authorizing the use of such alternative method; and

**WHEREAS**, due to the complexity of the Project, the long lead time to fabricate major components, schedule uncertainties in the permitting process, and the possible inclusion of extended warranties, a Contract term of four years is requested under Section 373 of the Charter of the City of Los Angeles; and

**WHEREAS**, the Board of Water and Power Commissioners has the authority, subject to approval by ordinance, to let contracts for the construction, ownership, operation and maintenance of facilities for the generation, transformation, and transmission of electric energy, pursuant to Charter Section 674(a).

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Water and Power Commissioners finds that adherence to the rule that the award be made to the lowest responsive and responsible bidder is not practicable or advantageous and that the competitive sealed bid proposal method is in the best interests of the City due to the complexity of the Project and the large number of exceptions and clarifications that can reasonably be anticipated for this type of project.

**BE IT FURTHER RESOLVED** that pursuant to Charter Section 1022, the services advertised for in this Request for Proposal for Phase one are expert services which require knowledge and skills that are not available within LADWP. In addition, the availability of sufficient LADWP personnel for the construction services advertised for in Phase two is unknown at this time.

**BE IT FURTHER RESOLVED** that the Board of Water and Power Commissioners approves and recommends to the Los Angeles City Council adoption by Ordinance of the proposed criteria to be used in the selection of the contractor(s) for the proposed Sylmar AC/DC Filters Replacement Project pursuant to Section 371(b) of the Charter and that the Board of Water and Power Commissioners be permitted to award the contract(s) for said equipment and construction for a term not-to-exceed four years without further approval by the Los Angeles City Council pursuant to sections 373 and 674 of the Charter.

**I HEREBY CERTIFY** that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held. **MAR 05 2013**


APPROVED AS TO FORM AND LEGALITY  
CARMEN A. TRITANICH, CITY ATTORNEY

BY ERIC ROSENBLATT  
ERIC ROSENBLATT  
DEPUTY CITY ATTORNEY

Bonnie E. Thacker  
Secretary



POWER SYSTEM  
JAN 18 2013  
EXECUTIVE OFFICE

TRANSMITTAL			0220-04742-0000
TO Ronald O. Nichols, General Manager Department of Water and Power	DATE JAN 17 2013	COUNCIL FILE NO.	
FROM The Mayor	COUNCIL DISTRICT		
<p><b>ORDINANCE FOR THE SYLMAR AC/DC FILTERS REPLACEMENT PROJECT AUTHORIZING DESIGN-BUILD CRITERIA FOR A CONTRACT TO BE LET USING A COMPETITIVE SEALED BID PROPOSAL METHOD.</b></p> <p>Transmitted for further processing. See the City Administrative Officer report attached.</p> <p> MAYOR</p> <p>MAS:RPR:10130080f</p>			

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: January 14, 2013

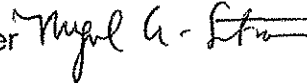
CAO File No.: 0220-04742-0000

Council File No.:

Council District: NA

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Department of Water and Power dated November 13, 2012; referred by the Mayor for report on November 27, 2012

Subject: **ORDINANCE FOR THE SYLMAR AC/DC FILTERS REPLACEMENT PROJECT AUTHORIZING DESIGN-BUILD CRITERIA FOR A CONTRACT TO BE LET USING A COMPETITIVE SEALED BID PROPOSAL METHOD.**

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### SUMMARY

The Department of Water and Power (DWP; Department) requests approval of a proposed resolution, which authorizes by ordinance, the criteria for a Design-Build contract for the Sylmar Converter Station Alternating Current (AC) / Direct Current (DC) Filters Replacement Project (Project) that the DWP intends to let using a competitive sealed bid proposal method. The purpose of AC and DC filters is to mitigate voltage distortion, reduce communication system (i.e. telephone lines) interference, and to provide the minimum power requirements for the operation of a high voltage DC system.

The Sylmar Converter Station, which is the owned by several participants consisting of DWP (40% and managing participant); Southern California Edison (50%), the City of Burbank (3.846%), the City of Glendale (3.846%), and the City of Pasadena (2.308%), is the southern converter station of the Pacific DC Interie transmission line that transmits electricity from the Celilo Converter Station (Celio). Celio is located near The Dalles, Oregon, and is owned and operated by the Bonneville Power Administration (BPA). All participants of the Sylmar Converter Station will be responsible for costs of the Project based on their respective ownership shares.

The existing filter banks were constructed in the 1970's and 1980's and were planned to be replaced in the 2004 Sylmar Replacement Project. However, due to budget limitations at the time, the filter replacements were removed from the project. While the filters have continued to function, the Project is currently included in the DWP Power Reliability Program and identified as necessary due to escalating safety and reliability concerns following the several fire incidents at the filter banks. Furthermore, to minimize the system outage duration and financial impact, the timing of the Project will coincide with the upcoming Celio Replacement Project by the BPA.

Approval of the proposed resolution, and accompanying ordinance, will specifically authorize the Department to (1) establish criteria for DWP to award a Design-Build contract for the Project; (2)

permit negotiations to allow clarifications and changes to the proposals, pursuant to a competitive sealed proposal method; and (3) award a Design-Build contract for equipment and construction, for exclusive terms not to exceed four years, to a bidder with the lowest ultimate cost, as determined by DWP. Pursuant to Charter Section 371(b), for competitive sealed proposals, a vote of two-thirds the City Council approving the contract selection criteria is required to let a contract using a competitive sealed proposal method. The City Attorney has approved the proposed resolution and ordinance as to form and legality.

The Design-Build criteria proposed for approval will permit an award to a bidder specialized in the engineering, design, and procurement of the AC and DC filter banks equipment. The Project will require work that the Department does not have the expertise or manufacturing capabilities to perform these tasks. DWP intends to award a single agreement containing two phases. Phase One is for the engineering design and procurement of equipment for four AC and two DC Filter Banks; and the upgrade or replacement, testing, and commissioning of the existing high voltage control system and the new AC and DC filter equipment. Phase Two provides the option to purchase full or partial construction of all equipment procured under Phase One. Any balance of work is expected to be performed by DWP construction forces. According to the Department, approximately 70 to 130 DWP staff members will be involved at various phases of the Project to perform project management, quality control, and oversight activities including all associated financing costs.

The Project duration is anticipated to be four years with an estimated cost of \$140 million funded through customer rates in the Reliability Cost Adjustment Factor. Reimbursement from the other participants of the Sylmar Converter Station is estimated to total \$84 million (60 percent).

The Department states that a competitive sealed proposal with negotiations is necessary to allow DWP to obtain the best value for the Project. Furthermore, the technical details and complexity of the Project make it not practical or feasible to write detailed specifications, advertise, open bids publicly, and award these contracts without any clarifications, changes, or negotiations for this highly complex project. Consistent with Charter Section 371(b) competitive bidding requirements, Design-Build or other appropriate project delivery method may be used when justified by the type of project and approved by the contracting authority. A benefit of the Design-Build contracting method (compared to the traditional Design-Bid-Build method) is the ability to overlap certain design and construction tasks and processes which offer a potentially reduced overall project duration.

The above-mentioned aspects of the proposed resolution, ordinance, and this report, are based upon revised information received from the Department subsequent to the initial request submittal.

#### **CONTRACTUAL COMPLIANCE**

The City Attorney has approved the proposed resolution and ordinance as to form and legality. According to the Department, information regarding contractual compliance to the City policies and procedures will be available when the proposals are received and after the ordinance related to City Charter Section 371(b) is approved by the City Council.

## RECOMMENDATION

That the Mayor:

1. Approve the proposed resolution, which authorizes by ordinance, the criteria for a Design-Build contract for the Sylmar AC/DC Filter Replacement Project that the DWP intends to let using a competitive sealed bid proposal method, pursuant to Charter Section 371, and authorizes a contractual term not to exceed four years, pursuant to Charter Section 373; and,
2. Return the proposed resolution to the Department for further processing, including Council consideration and approval by a two thirds vote pursuant to Charter Section 371(b).

## FISCAL IMPACT STATEMENT

Approval of the proposed resolution and ordinance will not have a fiscal impact; however, the ensuing contract will result in a total expenditure estimated to be approximately \$140 million which is included in the Multi-Year Expenditure Plan of the DWP Power System Capital Budget for fiscal years 2011-12 through 2015-16. Reimbursement from the other Sylmar Converter Station participants is estimated to total \$84 million (60 percent). Approval of the proposed resolution and ordinance will have no impact on the City's General Fund. The proposed request complies with the Department's adopted Financial Policies.

## TIME LIMIT FOR COUNCIL ACTION

The City Attorney has advised that there is no time limitation on this action due to the ordinance approval requirement.

MAS:RPR:10130080

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA  
Mayor

Commission  
THOMAS S. SAYLES, *President*  
ERIC HOLOMAN, *Vice President*  
RICHARD F. MOSS  
CHRISTINA E. NOONAN  
JONATHAN PARFREY  
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS  
General Manager

POWER SYSTEM

JAN 18 2013

EXECUTIVE OFFICE

November 13, 2012

The Honorable Antonio R. Villaraigosa  
Mayor, City of Los Angeles  
Room 303, City Hall  
Mail Stop 370

Attention: Ms. Mandy Morales, Legislative Coordinator

Dear Mayor Villaraigosa:

Subject: Sylmar Filters Replacement Project Ordinance  
Requesting the Los Angeles City Council to Establish Design-Build Criteria  
Pursuant to Section 371(b) of the City Charter

OFFICE OF THE MAYOR  
RECEIVED  
2012 NOV 27 PM 3:24  
CITY OF LOS ANGELES

In accordance with Executive Directive No. 4, enclosed is a copy of a Board letter and supporting documents recommending approval and transmittal to the Los Angeles City Council of the subject Ordinance pursuant to Section 371(b) of the City Charter to allow the Los Angeles Department of Water and Power to use a competitive sealed bid proposal method to evaluate bid proposals for contracts on the Sylmar Filters Replacement Project.

It is respectfully requested that your review be completed as soon as possible. Once the required City Administrative Officer report has been received, the matter will be scheduled for action by the Los Angeles Board of Water and Power Commissioners and forwarded to the Los Angeles City Council for final consideration.

Please contact Ms. Winifred J. Yancy, Director of Local Government and Community Relations, at (213) 367-0025 upon completion of the review, if the review will take longer than 30 days, or if there are any questions regarding this item.

Sincerely,

Ronald O. Nichols  
General Manager

LT:gg  
Enclosures

c/enc: Mr. Matthew D. Karatz, Office of the Mayor  
Commissioner Thomas S. Sayles, President  
Commissioner Eric Holoman, Vice President  
Commissioner Richard F. Moss

Commissioner Christina E. Noonan  
Commissioner Jonathan Parfrey  
Ms. Winifred J. Yancy

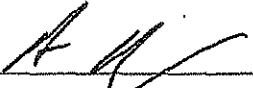
Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700  
Telephone: (213) 367-4211 Cable address: DEWAPOLA

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**LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) BOARD APPROVAL LETTER**

<b>TO: BOARD OF WATER AND POWER COMMISSIONERS</b>		<b>DATE:</b>
<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">   <hr style="width: 100%;"/> <b>ARAM BENYAMIN</b>                  Senior Assistant                  General Manager                  Power System             </div> <div style="text-align: center;"> <hr style="width: 100%;"/> <b>RONALD O. NICHOLS</b>                  General Manager             </div> </div>		<b>SUBJECT:</b>  Sylmar Filters Replacement Project Ordinance Requesting the Los Angeles City Council to Establish Design-Build Criteria Pursuant to Section 371(b) of the City Charter
		<b>FOR COMMISSION OFFICE USE:</b>  RESOLUTION NO. _____
<b>CITY COUNCIL APPROVAL                  REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></b>	<b>IF YES, BY WHICH CITY                  CHARTER SECTION: 371(b),                  373, and 674</b>	

**PURPOSE**

Transmitted for approval by your Honorable Board is a Resolution, approved as to form and legality by the City Attorney, authorizing the transmittal of an Ordinance requesting the Los Angeles City Council to approve the design and construction of the Sylmar Filters Replacement Project (Project).

The Ordinance will authorize the LADWP to let a design-build contract with two phases pursuant to a competitive sealed proposal method permitting negotiations relating to the engineering, procurement, and construction of the Project based on the criteria established by the Ordinance. Phase 1 will be to engineer and procure, and Phase 2 is the option to purchase the full or partial construction of the Project. The Ordinance will authorize a term not-to-exceed four years for the contract.

Pursuant to a competitive sealed proposal method, design-build criteria adopted by the Ordinance will permit an award to a bidder specialized in the design and manufacture of AC and DC filter banks and high voltage DC (HVDC) control/protection control systems, and the construction and commissioning of AC and DC filter banks and high voltage DC control/protection control systems. The sealed proposal method, per Charter §371(b), permits negotiations after proposals have been opened to allow clarifications and changes to the proposal. Per Charter §371(a) and Los Angeles Administrative Code §10.47, the Local Business Preference Program will apply. The extended term of the contract, per Charter §373, is necessary because of the complexity of the Project, the long lead times to fabricate major components, schedule uncertainties in the permitting process, and the possible inclusion of extended warranties in the contract.

The approach will be to advertise one Request for Proposal with one agreement containing two phases, which may be awarded in whole or in part at LADWP's discretion. Phase 1 will be for the engineering, design and procurement of the AC and DC filter banks equipment; the upgrading or replacement, testing and commissioning of the HVDC Control/Protection System; the acquisition of technical services; and the testing and commissioning of the new AC and DC filter equipment. Phase 2 will be for the option to purchase the full or partial construction of all equipment and material designed and procured under Phase 1. The balance of the work will be performed by LADWP construction forces.

### **COST AND DURATION**

The total estimated cost for the project is approximately \$140 Million. The duration of the proposed contract will not exceed four years.

### **BACKGROUND**

The proposed project is being implemented pursuant to the alarming increase in recent years of fire incidences at the filter banks of Sylmar Converter Stations East and West. The existing filter banks were built in the 1970's and 1980's and were originally slated for replacement in the Sylmar Replacement Project in 2004; however, due to budget constraints, the filter banks were eliminated from the project. The reliability of Sylmar Converter Station will be severely handicapped if more than one filter bank is out of commission at a time. This project will be constructed in conjunction with the Celilo Converter Station Replacement Project by Bonneville Power Administration in order to minimize the system outage duration and financial impact of the Pacific DC Intertie.

LADWP proposes to demolish the existing filter banks at Sylmar Converter Stations East and West and to construct four new AC and two new DC filter banks at the Sylmar Converter Station East. In addition, the high voltage DC control/protection system will be upgraded or completely replaced to accommodate the new filter banks.

### **Charter Section 1022**

The Project will consist of a design-build contract. At this time, LADWP does not have the in-house expertise to perform the requirements of the contract.

**Los Angeles City Council Approval**

Per Charter §§371(b), 373, and 674, Los Angeles City Council approval is required. Accordingly, attached is the signed City Administrative Officer report dated XXXXXXX.

**METHOD OF SELECTION**

Competitive     Cooperative Purchase     Sole Source     Single Source

**ENVIRONMENTAL DETERMINATION**

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the Sylmar Filters Replacement Project is exempt pursuant to the General Exemption described in CEQA Guidelines Section §15031(b).

**RECOMMENDATION**

It is requested that your Honorable Board adopt the attached Resolution recommending the Los Angeles City Council's approval by Ordinance to allow the use of competitive-sealed bid proposal method in accordance with §371(b), to allow a contract term not-to-exceed four years in accordance with §373, and to grant the Board the power to let a contracts for a project transmitting electric energy in accordance with §674 of the Los Angeles City Charter.

LT:gg

Attachments

e-c/att: Ronald O. Nichols  
Richard M. Brown  
Aram Benyamin  
James B. McDaniel  
Philip Leiber  
Gary Wong  
Randy S. Howard  
Mohammed J. Beshir  
Mukhlesur Bhuiyan  
John G.K. Hu  
Marvin D. Moon  
Nazih S. Batarseh  
Eric C. Hartman  
Eric Rosenblatt  
Lih Tsau

*Always  
in DM*

*EAH*



**WHEREAS**, the Pacific Intertie DC (PDCI) Transmission Facilities Agreements between the City and Southern California Edison (Contract No.10078), the City of Burbank (Contract No.10129), the City of Glendale (Contract No.10128), and the City of Pasadena (Contract No.10130), herein referred to as the PDCI Participants, stipulates that the Los Angeles Department of Water and Power (LADWP) has the right and duty to operate, maintain and make additions, betterments and necessary replacements to the DC Transmission Facilities at Sylmar DC Converter Stations; and

**WHEREAS**, the AC and DC Filters equipment built in the 1970's and 1980's were not replaced by the Sylmar Replacement Project in 2004 due to budget constraints, and the AC Filter components have failed by fire flare ups in the last three consecutive years; and

**WHEREAS**, LADWP intends to oversee the acquisition, design, engineering, procurement, fabrication, construction, and all associated financing costs of the Sylmar AC/DC Filters Replacement Project at an estimated cost of \$140 Million; and

**WHEREAS**, the Sylmar AC/DC Filters Replacement Project includes the removal of all filters and associated equipment at Sylmar Converter Station West and East with the installation of four AC and two DC Filter Banks at Sylmar Converter Station East and the upgrade or replacement of the existing High Voltage DC(HVDC) control/protection system; and

**WHEREAS**, the Project goals are to provide improved efficiency and reliability, reduce operation costs, simplify maintenance, and provide safer, more integrated system operation in one facility by utilizing modern reactive power supply equipment with smaller space requirements and lower failure rates; and

**WHEREAS**, per the Pacific Intertie DC (PDCI) Transmission Facilities Agreements, the PDCI Participants will reimburse LADWP a total of 60 percentage of the final project cost; and

**WHEREAS**, LADWP desires to advertise one Request for Proposal with one agreement containing two phases, which may be awarded in whole or in part at LADWP's discretion, using the competitive sealed proposal method that permits negotiations after proposals have been submitted to allow clarifications and changes to the proposal; and

**WHEREAS**, Phase one of the Request for Proposal will be the engineering design and procurement of the AC and DC Filter Banks equipment; and the upgrade or replacement, testing and commissioning of the existing Control/Protection System and the new AC and DC filter equipment; and Phase two will be for the option to purchase full or partial construction of all equipment procured under Phase one; and

**WHEREAS**, Section 371(b) of the Charter of the City of Los Angeles provides that as an alternative to an award pursuant to open and competitive bidding, a contract may be let pursuant to a competitive sealed proposal method, in accordance with criteria adopted by a two-thirds vote of the Council. The competitive sealed proposal method may permit negotiations in accordance with criteria as established by the Ordinance authorizing the use of such alternative method; and

**WHEREAS**, due to the complexity of the Project, the long lead time to fabricate major components, schedule uncertainties in the permitting process, and the possible inclusion of extended warranties, a Contract term of four years is requested under Section 373 of the Charter of the City of Los Angeles; and

**WHEREAS**, the Board of Water and Power Commissioners has the authority, subject to approval by ordinance, to let contracts for the construction, ownership, operation and maintenance of facilities for the generation, transformation, and transmission of electric energy, pursuant to Charter Section 674(a).

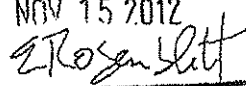
**NOW, THEREFORE, BE IT RESOLVED** that the Board of Water and Power Commissioners finds that adherence to the rule that the award be made to the lowest responsive and responsible bidder is not practicable or advantageous and that the competitive sealed bid proposal method is in the best interests of the City due to the complexity of the Project and the large number of exceptions and clarifications that can reasonably be anticipated for this type of project.

**BE IT FURTHER RESOLVED** that pursuant to Charter Section 1022, the services advertised for in this Request for Proposal for Phase one are expert services which require knowledge and skills that are not available within LADWP. In addition, the availability of sufficient LADWP personnel for the construction services advertised for in Phase two is unknown at this time.

**BE IT FURTHER RESOLVED** that the Board of Water and Power Commissioners approves and recommends to the Los Angeles City Council adoption by Ordinance of the proposed criteria to be used in the selection of the contractor(s) for the proposed Sylmar AC/DC Filters Replacement Project pursuant to Section 371(b) of the Charter and that the Board of Water and Power Commissioners be permitted to award the contract(s) for said equipment and construction for a term not-to-exceed four years without further approval by the Los Angeles City Council pursuant to sections 373 and 674 of the Charter.

**I HEREBY CERTIFY** that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held.

APPROVED AS TO FORM AND LEGALITY  
CARMEN A. TRITANICH, CITY ATTORNEY

NOV 15 2012  
  
BY \_\_\_\_\_  
ERIC ROSENBLATT  
DEPUTY CITY ATTORNEY

\_\_\_\_\_  
Secretary

ORDINANCE NO. \_\_\_\_\_

An ordinance authorizing the Board of Water and Power Commissioners to award one agreement with two phases pursuant to a competitive sealed proposal method, to permit negotiations relating to the procurement, design, engineering and construction of the Sylmar AC/DC Filter Replacement Project ("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 one agreement with two phases, which may be awarded in whole or in part, on a competitive sealed proposal basis, as provided herein, for the Sylmar Alternating Current (AC)/Direct Current (DC) Filter Replacement Project.

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 precaution to treat each proposer fairly.

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 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. Pursuant to Sections 371(a) & (b) of the Charter of the City of Los Angeles, the following design-build criteria, approved by the Board of Water and Power Commissioners, Resolution No. \_\_\_\_\_, are hereby approved.

Sec. 6. Phase one of the Agreement is for the acquisition of four AC filter banks and two DC filter banks; the upgrade or replacement, and commissioning of the existing High Voltage Direct Current (HVDC) control/protection system; the acquisition of technical services; and the testing and commissioning of the new AC and DC filter equipment. The design-build criteria for this contract award shall be as follows:

- (a) Qualifications – Bidder's proposal shall contain at a minimum the following:

- (i) Experience in designing, fabricating, and delivering similar AC and DC filter banks and HVDC Control/Protection System Upgrade for comparable projects.
  - (ii) Experience in providing technical services to support erection and commissioning of the equipment.
  - (iii) Experience in upgrading or replacement, testing and commissioning the HVDC Control/Protection System for comparable projects.
  - (iv) Financial, labor, material procurement and equipment resources available for the Project.
- (b) Bidder's proposal shall provide proposed contract terms and conditions, and commercial factors for the Sylmar AC/DC Filter Replacement Project including:
- (i) Evaluated cost, proposal prices, estimated lump sum cost, schedule of payments, and the time value of money.
  - (ii) Capability and resources available to meet schedule requirements.
  - (iii) Quality assurance/control plan and program to ensure the quality of the equipment fabrication and the quality of work.
  - (iv) Insurance, performance and labor and material bond requirements to manage the risk.
  - (v) Liquidated damages for critical items such as the milestone schedule and guarantees.
  - (vi) Warranties and guarantees to make corrections due to defects and failures of components to function according to requirements.
  - (vii) Selection plan for subcontractors, including a list of prospective Minority/Women/Other Business Enterprises for use on the Project and to ensure that fair practices are used in such selection.
  - (viii) Safety and security programs to meet federal, state, and local safety and security requirements.
  - (ix) Authorized auditors to audit contractor, contractor's subcontractors, and suppliers.
  - (x) Authorized inspectors to perform examinations, inspections and tests of equipment, material, and workmanship.
- (c) Bidder's proposal shall provide proposed technical factors including:
- (i) Scope of Work for the Project.
  - (ii) Schedule for the Project.
  - (iii) Methods to demonstrate that the proposed equipment and materials meet all contractual requirements.
  - (iv) Fabrication plan and schedule to include qualified personnel and equipment for the Project.
  - (v) Regulatory compliance to meet all local, state, and federal requirements.
  - (vi) Demonstration of ability to design and fabricate similar equipment.

- (vii) Implementation of design and fabrication monitoring programs during all phases of the Project.
  - (viii) Methods to incorporate design modifications and field changes and to provide accurate and timely drawings.
- (d) Bidders shall submit the following:
- (i) A sealed cost proposal; and
  - (ii) A proposal security in the form of a cash deposit or proposal bond not less than 10 percent of the bid amount of the contract, as established by each proposal. Said deposit or bond shall be forfeited if a proposal is accepted but the responder fails to execute the contract; and
  - (iii) Other relevant information.
- (e) Procedures applicable to discussions and negotiations with bidders, including safeguards to preserve confidential and proprietary information supplied by bidders, and other appropriate precautions to treat each bidder fairly. Bidder's sealed cost proposal shall not be considered confidential nor proprietary information.
- (f) Procedures for indemnifying and holding harmless the City of Los Angeles acting by and through its Department of Water and Power ("LADWP") with respect to protests relating to solicitation, negotiation, or award of the Contract.
- (g) LADWP's other standard contract terms and conditions, including, but not limited to, the right to reject all bids, shall apply.

Sec. 7. Phase two of the Agreement is the option to purchase the full or partial construction of the four AC and two DC filter banks utilizing all procured equipment and the design of the filter banks supplied under Phase one of the Agreement. The construction criteria for this contract award shall be as follows:

- (a) Qualifications – Bidder's proposal shall contain at a minimum the following:
- (i) Experience in organizing, scheduling, managing, and constructing comparable projects.
  - (ii) Experience in commissioning and testing comparable projects.
  - (iii) Financial, labor, material procurement and equipment resources available for the Project.
- (b) Bidder's proposal shall provide proposed contract terms and conditions, and commercial factors for the Sylmar AC/DC Filter Replacement Project ("Project") including:

- (i) Evaluated cost, proposal prices, estimated lump sum cost, schedule of payments, and the time value of money.
  - (ii) Capability and resources available to meet schedule requirements.
  - (iii) Quality assurance/control plan and program to ensure the quality of the equipment fabrication and the quality of work.
  - (iv) Insurance, performance and labor and material bond requirements to manage the risk.
  - (v) Liquidated damages to critical items such as the milestone schedule and guarantees.
  - (vi) Warranties and guarantees to make corrections due to defects and failures of components to function according to requirements.
  - (vii) Selection plan for subcontractors, including a list of prospective Minority/Women/Other Business Enterprises for use on the Project and to ensure that fair practices are used in such selection.
  - (viii) Safety and security programs to meet federal, state and local safety and security requirements.
  - (ix) Authorized auditors to audit contractor, contractor's subcontractors, and suppliers.
  - (x) Authorized inspectors to perform examinations, inspections and tests of equipment, material, and workmanship.
- (c) Bidder's proposal shall provide proposed technical factors including:
- (i) Scope of Work for the Project.
  - (ii) Schedule for the Project.
  - (iii) Methods to demonstrate that the proposed equipment and materials meet all contractual requirements.
  - (iv) Construction plan to include qualified personnel and construction equipment for the Project.
  - (v) Regulatory compliance to meet all local, state, and federal requirements.
  - (vi) Demonstration of ability to construct the proposed equipment to function as stated within the Project Scope of Work.
  - (vii) Implementation of design, fabrication, and construction monitoring programs during all phases of the Project.
  - (viii) Methods to incorporate design modifications and field changes and to provide accurate and timely as-built drawings.
- (d) Bidder shall submit the following:
- (i) A sealed cost proposal; and
  - (ii) A proposal security in the form of a cash deposit or proposal bond not less than 10 percent of the bid amount of the contract, as established by each proposal. Said deposit or bond shall be forfeited if a proposal is accepted but the responder fails to execute the contract; and
  - (iii) Other relevant information.

- (e) Procedures applicable to discussions and negotiations with bidders, including safeguards to preserve confidential and proprietary information supplied by bidders, and other appropriate precautions to treat each bidder fairly. Bidder's sealed cost proposal shall not be considered confidential nor proprietary information.
- (f) Procedures for indemnifying and holding harmless the City of Los Angeles acting by and through LADWP with respect to protests relating to solicitation, negotiation, or award of the Contract.
- (g) LADWP's other standard contract terms and conditions, including, but not limited to, the right to reject all bids, shall apply.

Sec. 8. For the proposed agreement described in sections 6 and 7, a Local Business Preference shall be applied pursuant to Charter section 371 (a) and Los Angeles Administrative Code section 10.47. A proposer qualified as a Local Business shall be awarded additional points to the proposer's final score such that the score awarded to the proposer is increased by 8% of the total possible evaluation points. To be qualified as a Local Business, a proposer must satisfy all of the following criteria, as certified by the Designated Administrative Agency, the Los Angeles Department of Public Works, Bureau of Contract Administration:

- (a) The business must occupy space within the County of Los Angeles. The business must submit proof of occupancy to the City by supplying evidence of a lease, deed or other sufficient evidence demonstrating that the business is located within the County.
- (b) The business must submit proof to the LADWP demonstrating that the business is in compliance with all applicable laws relating to licensing and is not delinquent on any Los Angeles City or Los Angeles County taxes.
- (c) The business must submit proof to the LADWP demonstrating one of the following:
  - (i) That at least 50 of full-time employees of the business perform work within the boundaries of the County at least 60% of their total, regular hours worked on an annual basis; or
  - (ii) That at least half of the full-time employees of the business work within the boundaries of the County at minimum of 60% of their total, regular hours worked on an annual basis; or
  - (iii) That the business is headquartered in the County. For purposes of the Local Business Preference, the term "headquartered" shall mean that the business physically conducts and manages all of its operations from a location in Los Angeles County.

A business that has not yet established operations in Los Angeles and therefore is unable to qualify as a Local Business may, as an alternative, qualify as a Local

Business on a provisional basis if the proposer satisfies all of the following criteria, as certified by the Designated Administrative Agency:

- (a) The proposed Contract between the proposer and the LADWP involves consideration valued at no less than \$1,000,000 and has a term of no less than three years;
- (b) The proposer can demonstrate that the proposer is a party to an enforceable, contractual right to occupy commercial space within the County and its occupancy will commence no later than 60 days after the date on which the Contract with the LADWP is executed. The proposer must demonstrate proof of occupancy or an enforceable right to occupancy in the County of Los Angeles by submitting to the LADWP a lease, deed or other sufficient evidence; and
- (c) The proposer can demonstrate that, before the proposer is scheduled to begin performance under the Contract with the LADWP, the proposer qualifies as a Local Business, by submitting proof to the LADWP that it meets the criteria of Subsection C of Section 10.47.2 of the Los Angeles Administrative Code. The proposer must demonstrate proof of ability to satisfy the requirements of Section 10.47.2(C) by submitting to the LADWP a business plan or other evidence deemed sufficient by the Designated Administrative Agency.

A business that does not qualify as a Local Business, but that identifies a qualifying Local Subcontractor to perform work under the Contract, shall be awarded a preference of up to 5%, provided the Local Subcontractor satisfies the criteria enumerated in Sections 10.47.2 and 10.47.7 of the Los Angeles Administrative Code. The score awarded to a proposer will be increased by 1% for every 10% of the total cost of the proposed work under the Contract to be performed by a Local Subcontractor; provided that each Local Subcontractor, the work of the Local Subcontractor, and the cost of the work of the Local Subcontractor are specified clearly in the proposal. The maximum preference possible is 5%.

The preferences authorized under the Local Business Preference Program shall be subject to the following additional requirements:

- (a) Preferences awarded for services shall be applied only if the services are provided directly by the Local Business or Local Subcontractor using employees whose exclusive, primary working location is in Los Angeles County;
- (b) Preferences awarded for equipment, goods or materials shall be applied only if the Local Business or Local Subcontractor substantially acts as the supplier or dealer, or substantially designs, manufactures or assembles the equipment, goods or materials, at a business location in Los Angeles County. As used in this Section, "substantially" means not less than two



thirds of the work performed under the Contract must be performed, respectively, by the Local Business or Local Subcontractor;

- (c) The maximum bid or proposal preference shall not exceed \$1,000,000 for any bid or proposal;
- (d) Preferences applied pursuant to the Local Business Preference Program shall be utilized solely for the purpose of evaluating and selecting the Contractor to be awarded the corresponding Contract. Except as provided in Los Angeles Administrative Code Section 10.47.9, the preference points shall in no way lower or alter the Contract price, which shall in the case of a proposal reflect the amount proposed by the Local Business in the proposal before the application of preference points;
- (e) This Section neither creates a right to receive a proposal preference, nor the duty to grant a proposal preference;
- (f) The LADWP may, at any time before the award of a contract, determine that it is not in the LADWP's best interest to grant a proposal preference and award the contract to the proposer eligible for the award without consideration of the provisions of this Section; and
- (g) This Section applies only to contracts that involve the expenditure of funds entirely within the City's control and shall not apply to contracts that involve the expenditure of funds that are not entirely within the City's control, such as state and federal grant funds, that due to legal restrictions prohibit its application.

Should a Local Business fail to maintain its Local Business status:

- (a) If for any reason the Contractor fails to qualify as a Local Business for more than 60 days during the entire term of the Contract, the LADWP shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the Proposal Preference.
- (b) If for any reason the Local Subcontractor, providing the basis for a Local Subcontractor Preference, is unable to, or does not, perform the work under the Contract, the Contractor shall, within 60 days, replace that Local Subcontractor with another Local Subcontractor. If the Contractor is unable to replace the Local Subcontractor specified in the Contract with another Local Subcontractor within 60 days, the LADWP shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the Proposal Preference.
- (c) For purposes of determining the value of the Proposal Preference in Subsections (a) and (b), above, the LADWP may withhold or recover the difference in proposal price between the Contractor's proposal and the proposal of the next most competitive proposer that did not receive the

award of the Contract by the LADWP. In addition, the LADWP may withhold or recover any other additional cost or detriment to the City from the Contractor's failure to maintain the Contractor's Local Business status for more than 60 days during the term of the Contract.

- (d) If a Contractor fails to maintain the Contractor's Local Business status for more than 60 days during the term of the Contract, as specified in Subsections (a) and (b), above, the failure is subject to the recording and reporting requirements of Articles 13 and 14, Chapter 1, Division 10 of the Los Angeles Administrative Code.
- (e) The remedies available to the LADWP under this Section are cumulative to all other rights and remedies available to the LADWP.

Sec. 9. This proposed project is subject to the California Environmental Quality Act ("CEQA"), Public Resources Code S 2100, et seq. As such, it has been determined that the Sylmar Filters Replacement Project is exempt pursuant to the General Exemption describe in CEQA Guidelines Section 15031 (b)

Sec. 10. Pursuant to Charter Section 1022, the services advertised for in Phase One of this Request for Proposal are for expert services which require knowledge and skills that are not available within LADWP. Based on the availability of LADWP construction personnel at the time the Request for Proposal is advertised, the Board of Water and Power Commissioners may determine that the construction services advertised for in Phase Two of the Request for Proposal may be performed more economically or feasibly by the contractor awarded the contract advertised for in the RFP than by LADWP employees.

Sec. 11. Notwithstanding any other ordinance, rule or law of the City of Los Angeles to the contrary, the Board of Water and Power Commissioners may award a contract using the aforementioned criteria pursuant to sections 371(a), 371(b), 373 and 674 of the Charter of the City of Los Angeles and section 10.47 of the Los Angeles Administrative Code as to the equipment and services described in sections 6 and 7 for a term not to exceed four years, for an estimated amount of \$140 Million, 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 it for ten days in three public places in the City of Los Angeles as follows: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the Main Street entrance to City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by a two-thirds vote of the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

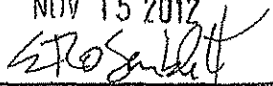
CARMEN A. TRUTANICH, City Attorney

By \_\_\_\_\_  
ERIC ROSENBLATT  
Deputy City Attorney

Date \_\_\_\_\_

File No. \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
CARMEN A. TRUTANICH, CITY ATTORNEY

NOV 15 2012  
BY   
ERIC ROSENBLATT  
DEPUTY CITY ATTORNEY