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REPORT NO. R 18 - 0058
MAR 01 2018

REPORT RE:

DRAFT ORDINANCE AUTHORIZING THE UTILIZATION OF ALTERNATE PROJECT DELIVERY METHODS PURSUANT TO A COMPETITIVE SEALED PROPOSAL METHOD FOR THE CONSTRUCTION OF A FACILITY OR FACILITIES AS NECESSARY RESPONSE ACTIONS TO THE PRESENCE OF HAZARDOUS SUBSTANCES IN THE SAN FERNANDO GROUNDWATER BASIN, AND REQUESTING THE LOS ANGELES CITY COUNCIL TO ESTABLISH DESIGN-BUILD CRITERIA PURSUANT TO SECTIONS 371(b) AND 373 OF THE LOS ANGELES 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 allows the Board of Water and Power Commissioners to: (1) authorize the Los Angeles Department of Water and Power (LADWP) to utilize alternate project delivery methods for the construction of a facility or facilities as necessary response actions to the presence of hazardous substances in the San Fernando Groundwater Basin (Project(s)); (2) establish design-build criteria for LADWP to use in the evaluation of Project proposals; (3) permit negotiations to allow clarifications and changes to the proposals pursuant to a competitive sealed proposal method; and (4) award contracts for a term not to exceed five years to a proposer or proposers with the lowest ultimate cost as determined by LADWP.

The ordinance will authorize the advertisement of a Request for Proposals for contracts to be awarded at LADWP's discretion utilizing alternate project delivery methods, consisting of Construction Manager at Risk, Design-Build and/or Progressive Design-Build, for the construction of the Project in the San Fernando Groundwater Basin (SFB).

Background

The purpose of the Project is to address the release of hazardous substances that are adversely affecting the beneficial use of groundwater in the SFB, including the North Hollywood, Tujunga, Rinaldi-Toluca, Erwin, Whitnall, Verdugo, Headworks and Pollock Well Fields. Subject to prior environmental review and approval by LADWP and regulatory authorities, the Project may be implemented through the construction of wells and/or groundwater treatment facilities or other remediation activities. LADWP has been engaged in actions to respond to the releases of hazardous substances in the SFB, in substantial compliance with relevant National Contingency Plan (NCP) requirements, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). LADWP has made a commitment to clean up the contamination in the SFB to protect the environment and to restore the beneficial use of the SFB as a water resource, which will help the City of Los Angeles comply with Mayor's Directive No. 5 to reduce the purchase of potable water by 50% by 2024.

The LADWP retains its full discretion to make a determination regarding selection and implementation of one or more response actions comprising the Project, including the selection of no response action at all. The LADWP will make such determination regarding the selection of a response action in accordance with law. Due to the anticipated accelerated schedule and specialized nature of the potential response action Project(s), comprehensive plans and/or specifications have not been completed and would best be developed in concert with expert consultants and construction personnel working simultaneously, making an alternative project delivery method the most practical and best option available to LADWP for all remediation facilities.

Charter Compliance

This ordinance is transmitted for your approval pursuant to Los Angeles City Charter (Charter) Sections 371(b) and 373. Charter Section 371(b) requires a vote of at least two-thirds of the City Council approving the contract selection criteria to award a contract using a competitive sealed proposal method. Charter Section 373 and Los Angeles Administrative Code Section 10.5 provide that no contract may be let for a period of longer than three years without prior approval of the City Council.

CEQA Determination

The proposed Project is subject to the California Environmental Quality Act (CEQA). The Board of Water and Power Commissioners (Board) has made no final determinations regarding the proposed response action Project(s). The Board retains full discretion to make a determination regarding the proposed response action Project(s) to be implemented, including, but not limited to, the possible selection of an alternatively analyzed project or the selection of no project. The Board will review the CEQA analysis and make a determination pursuant to law. No Project(s) will be implemented prior to the completion of the CEQA compliance process.

Recommendation

The City Administrative Officer 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.

Council Rule 38 Referral

The 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 questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

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Transmittal