



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 18 - 0 2 7 2  
SEP 0 4 2018

**REPORT RE:**

**REVISED DRAFT ORDINANCE AUTHORIZING THE UTILIZATION OF COMPETITIVE SEALED PROPOSAL PROCESS WITH ALTERNATE PROJECT DELIVERY METHODS ON CONTRACTS FOR THE MAINLINE REPLACEMENT PROGRAM, THE TRUNK LINE REPLACEMENT PROGRAM, THE MID-VALLEY AND WESTERN DISTRICT OPERATIONS AND MAINTENANCE FACILITIES, THE WATER QUALITY LABORATORY, AND THE FAIRMONT RESERVOIR WATER QUALITY TREATMENT FACILITY; AND ESTABLISHING SELECTION CRITERIA PURSUANT TO SECTION 371(b) 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 revised draft ordinance, approved as to form and legality. The original draft ordinance was transmitted to the City Clerk on April 6, 2018. The revised draft ordinance further identifies the proposed projects to be included in the Trunk Line Replacement Program and details the procedure to be followed in the event that an addition or replacement of a project is required. It also sets the requirement that the Request for Qualifications be re-opened every 30 months to allow for the inclusion of additional design-build teams in the Program, and caps the total contract amount to be awarded pursuant to this ordinance at \$2.575 billion.

This revised draft ordinance would allow the Los Angeles Department of Water and Power (LADWP) to: (1) utilize alternate project delivery methods for the construction of the Mainline Replacement Program, the Trunk Line Replacement Program, the Mid-Valley and Western District Operations and Maintenance Facilities, the Water Quality Laboratory, and the Fairmont Reservoir Water Quality Treatment Facility (hereinafter, the Proposed Projects); (2) establish criteria for LADWP to use in the evaluation of Proposed 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 fixed five-year term, subject to the Board of Water and Power Commissioners (Board) and City Council approval as recommended by the Chief Administrative Officer, to a qualified proposer or proposers selected on the basis of the proposer's ability to perform at the lowest ultimate cost to LADWP, as determined by LADWP. LADWP may include an option in the contract(s) to extend the term for an additional five-year period for a cumulative term up to ten years, with prior approval by the Board and City Council.

The revised draft ordinance will authorize a two-step Request for Qualifications/Request for Proposals process 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 assessment, design and construction of the Proposed Projects.

#### Background

The purpose of the Proposed Projects is to address LADWP's aging infrastructure in a timely and expeditious manner while continuing to meet water quality goals and adhering to regulatory requirements.

The use of alternate project delivery methods enables early collaboration between designer and builder, potential opportunities for streamlining project schedules, and selection of entities able to provide the best value to LADWP. Early collaboration allows the design and construction disciplines to work together to complete designs that meet LADWP's constructability and budget objectives, reducing the need for change orders that can lead to budget increases, disputes and claims.

For each proposed Mainline or Trunk Line Project, LADWP will issue a Request for Proposal to the awarded contractors on a competitive task order basis for assessment, design and construction. For Operations and Maintenance and Water Quality Facilities projects, LADWP shall submit separately to the City Council for approval a negotiated agreement specifying the alternate delivery method utilized. Proposed Projects will be located throughout the City and will integrate into the operations of the Water Distribution System.

### Charter Compliance

This revised draft ordinance is transmitted for your approval pursuant to Charter Section 371(b). Los Angeles 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.

### CEQA Determination

In accordance with Section 15060(c)(3) of the California Environmental Quality Act (CEQA) Guidelines, an activity is not subject to CEQA if it does not meet the definition of a project. Section 15378(b)(5) states that organizational or administrative activities that will not result in direct or indirect physical changes in the environment do not meet that definition. Therefore, the approval of an ordinance to allow the award of a design-build contract is not subject to CEQA.

It is noted, however, that the Proposed Projects are subject to CEQA, Public Resources Code Section 2100, et seq. In accordance therewith, LADWP, as lead agency, will conduct environmental reviews for all Proposed Projects and prepare the appropriate environmental documentation needed to evaluate and disclose the potential environmental impacts associated with the construction and operation of the Proposed Projects. It is important to note that the Board has made no final determinations regarding the Proposed Projects. The Board retains its full discretion to make a determination regarding the Proposed Projects to be implemented, including the possible selection of an alternatively analyzed project or projects, or the selection of no project. The Board will review the CEQA analysis and make a determination pursuant to law. No Task Order Proposal for construction will be awarded prior to the completion of the CEQA compliance process.

### Recommendation

The City Administrative Officer has 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. Based on the foregoing, it is requested that the City Council adopt the enclosed revised draft ordinance.

### Council Rule 38 Referral

The revised 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) 367-4500. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By   
DAVID MICHAELSON  
Chief Assistant City Attorney

DM:ER:rc  
Transmittal