

ORDINANCE NO. _____

An ordinance authorizing the Department of Airports to use the competitive sealed proposal selection process and alternative project delivery methods, and establishing criteria relating to such contracts for select capital improvement projects related to the modernization and development of a consolidated Facilities Maintenance Utilities Group campus at Los Angeles International Airport.

WHEREAS, Section 371(b) of the Los Angeles City Charter pennits the letting of contracts pursuant to a competitive sealed proposal method, in accordance with criteria established by ordinance adopted by at least two-thirds of the City Council, and also allows for the use of alternative project delivery methods such as construction manager at risk, design- build, design-build-finance, and design-build-finance-operate-maintain as well as other alternative project delivery methods;

WHEREAS, the consolidated Facilities Maintenance Utilities Group (FMUG) project is a new development within a portion of Area 4 of the Los Angeles International Airport (LAX) Northside Area and located in the Airport Support District Areas of LAX Northside Plan. The FMUG project will consolidate and replace the maintenance facilities and operations that are currently used by Los Angeles World Airports (LAWA) at various locations around the LAX property. Due to the nature of the operations and the complexities involved in modernizing and consolidating LAX's facilities maintenance and operation without impacting or interrupting existing operations, it is in the best interest of the City of Los Angeles to proceed with a competitive sealed proposal selection process;

WHEREAS, the purpose of this ordinance is to authorize the use of alternative project delivery methods for contracts between LAWA and the successful bidder for pre-construction services, construction, finance, and related services for select projects related to the FMUG project at LAX;

WHEREAS, time is of the essence to shorten the overall disruption that LAX will experience during the relocation, consolidation, and construction of the facilities maintenance and utilities group;

WHEREAS, it is advisable for LAWA to use the competitive sealed proposal selection process and an alternative project delivery method such as construction manager at risk, design- build, design-build-finance, and design-build-finance-operate-maintain, as well as other alternative project delivery methods pursuant to the terms of this ordinance because this type of work is specialized and regulated making it critically important that the bidders have the experience and expertise to carry out the project in an accurate and timely manner;

WHEREAS, the Los Angeles City Council desires to authorize LAWA to use the competitive sealed proposal selection process and alternative project delivery methods for the FMUG project;

WHEREAS, the Los Angeles City Council desires to authorize LAWA to use the most efficient and effective procurement and contracting tools for the FMUG project and to establish the criteria for the letting of such contracts by LAWA pursuant to such competitive sealed proposal selection process;

WHEREAS, the Los Angeles City Council recognizes the need and, therefore, desires to authorize LAWA to modify otherwise applicable procurement and contract requirements, including requirements in Los Angeles Administrative Code Sections 10.14 and 10.15, to reflect LAWA's use of alternative project delivery methods; and

WHEREAS, the Los Angeles City Council desires to authorize LAWA to apply a uniform rate of interest to payments due and owing, but not yet made, on contracts related to the FMUG Projects.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The City has determined that given the complexity involved in the development, building, and financing of the facilities of the size and capabilities involved in the FMUG project, it is in the City's best interest for Los Angeles World Airports (LAWA) to use the competitive sealed proposal selection process as provided herein and the Construction Manager at Risk, Design-Build, Design-Build-Finance, or Design-Build-Finance-Operate-Maintain alternative project delivery methods for the FMUG project, or any improvements or components relating to the FMUG project or its integration of the facilities and operations into the LAX property (collectively, the FMUG Projects). Such contracts shall be awarded by the Board of Airport Commissioners (BOAC), on behalf of LAWA, subject to the City Council's right of review under Charter Section 245 or, if applicable, the City Council's right of approval under Charter Section 373. No award may be made to a proposer whose final proposal is higher as to ultimate cost to the City (as defined in Charter Section 371) than any other responsive proposal submitted. In order to utilize these methods, BOAC shall make a written finding supported by a written statement of facts that adherence to the rule that the award be made to the lowest responsive and responsible bidder is not practicable or advantageous, and shall also state in writing the reason for the particular award.

Sec. 2. Contract negotiations may be engaged in by LAWA after proposals have been opened to allow clarification and changes in the proposal. LAWA shall take adequate precaution to treat each proposer fairly.

Sec. 3. Proposals shall be solicited by issuing a request for proposal (RFP), which shall be subject to prior BOAC approval and reviewable by the City Council under Charter Section 245. Public notice of the RFP shall be given in writing or electronically to prospective proposers. The RFP shall state the time and place at which the

proposals will be received by LAWA. Proposals received after the time and date specified shall be returned and shall not be considered.

Sec. 4. At a minimum, the RFP shall include: (a) description of the services and items desired or the scope of work to be performed; (b) a statement of the evaluation criteria that will be used in evaluating proposals; and (c) a statement as to when and in what form costs or prices are to be submitted. In addition, the RFP shall require that proposers submit, at a minimum: (a) relevant experience; (b) evidence of bonding capability; (c) a listing of subcontractors, to the extent known at the time of submission of the bid or offering to perform work, or a selection plan for subcontractors that meets specified requirements and which is sufficient to ensure that fair practices are used in such selection and in accordance with the requirements of Section 6, below; (d) updated financial and other relevant information sufficient to provide evidence of financial ability to complete the work; and (e) such other information as LAWA deems relevant and appropriate.

Sec. 5. Pursuant to Section 10.14(7) of the Los Angeles Administrative Code, the requirements of Subsections 2 and 5 of Section 10.14 shall be waived for any procurement and contract under this ordinance related to the FMUG Projects. The following requirements shall be established in place of the sections waived:

a. **Listing of Subcontractors.** Contracts awarded under this ordinance for the construction of any public work or improvement related to the FMUG Projects, shall provide in the bid documents prepared for such work or improvement that every person making a bid or offering to perform the work shall state therein:

(i) To the extent known at the time of submission of the bid or offering to perform the work, the name and address of each subcontractor who will perform work or labor or render service to the bidder in or about the construction of the work or improvement in an amount in excess of one-half of one percent (1/2%) of the prime contractor's total bid or \$10,000, whichever is greater.

(ii) That portion of the work which will be done by each subcontractor identified in the bid or offering.

The prime contractor shall list only the subcontractor for each portion as is defined by the prime contractor in its bid.

b. **Assignment.** No contractor shall permit any subcontractor listed in the original bid to voluntarily assign or transfer its subcontract without the prior consent of the awarding authority or its duly authorized officer.

Sec. 6. Notwithstanding any statute, code, or ordinance requiring a different rate of interest, interest accrues at the rate of 7 percent per annum on payments due and owing, but not yet made, on contracts related to the FMUG projects.

Sec. 7. The evaluation criteria shall be described in the RFP in a plan of evaluation that identifies evaluation factors and their relative importance to the proposed work or project. The criteria shall include, but not be limited to, a means to measure how well a proposal meets desired performance requirements and how the lowest ultimate cost will be determined.

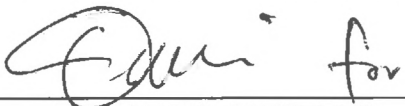
Sec. 8. Proposals shall be opened and their contents secured to prevent disclosure during the process of negotiating with competing proposers. Adequate precautions shall be taken to treat each proposer fairly and to ensure that information gleaned from competing proposals is not disclosed to other proposers, information contained in the proposals, including price, shall not be disclosed until a recommendation for award is made to BOAC.

Sec. 9. Award shall only be made to the responsible and responsive proposer whose final proposal is most advantageous to the City, except that BOAC may reject any or all offers if rejection is in the best interest of the City. No award may be made to a proposer whose final proposal is higher as to the ultimate cost to the City (as defined in Charter Section 371) than any responsive proposal submitted. BOAC shall document its findings regarding this determination.

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

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  for
EDUARDO ANGELES
Senior Assistant City Attorney

Date 4/29/19

File No. 19-0420

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than two-thirds** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____