



RESOLUTION NO. 26739

WHEREAS, on recommendation of Management, there was presented for approval, request for City Council's approval of an Ordinance, attached hereto and made part hereof, to allow Los Angeles World Airports to use a Request for Qualifications process for potential proposers to undertake certain capital improvement projects related to modernization and relocation of the Facilities Maintenance Utilities Group Campus at Los Angeles International Airport, and authorize use of alternative project delivery methods; and

LAX

Van Nuys

City of Los Angeles

Eric Garcetti
Mayor

Board of Airport
Commissioners

Sean O. Burton
President

Valeria C. Velasco
Vice President

Gabriel L. Eshaghian
Beatrice C. Hsu
Nicholas P. Roxborough
Thomas S. Sayles
Dr. Cynthia A. Telles

Deborah Flint
Chief Executive Officer

WHEREAS, the proposed Ordinance will: (1) approve use by Los Angeles World Airports (LAWA) of a Request for Qualifications to identify and prequalify those potential proposers with the necessary experience and skill to undertake the Facilities Maintenance Utilities Group (FMUG) Campus Relocation, (2) allow LAWA to establish criteria for the letting of contracts for the FMUG Campus Relocation pursuant to a competitive sealed proposal method, and (3) authorize use of alternative project delivery methods for contracts between LAWA and the successful bidders for procurement, pre-construction services, construction, finance, and related services for select projects related to the FMUG Campus Relocation. Use of both alternative delivery methods and Competitive Sealed Proposal Selection (CSPS) processes will allow for expedited delivery of program objectives of LAWA and development of property at Los Angeles International Airport (LAX); and

WHEREAS, currently, LAWA's FMUG facilities are located in four (4) separate locations within and outside of LAX boundaries. The main FMUG campus covers approximately twenty-one (21) acres within the North Midfield area. The FMUG facilities have exceeded their useful life and require extensive upgrades to retain their operational capability. The ability exists to solicit a qualified development group to build a new FMUG campus on the land designated as Airport Support District (Area 4; Northside) located south of Westchester Parkway from Pershing Drive to Loyola Boulevard; and

WHEREAS, LAWA staff believes that an accelerated delivery of the FMUG Campus Relocation Project, enabled by use of alternate delivery strategies and competitive sealed proposals, is highly desirable and will provide FMUG consolidated operations for years to come. Fewer buildings will result in lower operating and maintenance costs and allow LAWA to repurpose vital acreage for much needed airfield uses such as remain overnight aircraft parking. The alternative delivery strategies will help further ensure that best in class project development expertise is brought to LAX; and

WHEREAS, Section 371 of the Los Angeles City Charter requires that all contracts, other than certain enumerated exceptions, be "let to the lowest responsive and responsible bidder." In most contracts, compliance with Section 371 resulted in use of the traditional design-bid-build delivery method. However, experience and past performance is not a factor in the selection process. To overcome these disadvantages, City Charter Section 371(b) authorizes use of the CSPS process to allow LAWA to use alternative means of selecting contractors where awarding a contract to the lowest responsive and responsible bidder is not advantageous or practical, including those projects where a contractor's qualifications and experience are critical to the project's success. In those instances, the City Charter allows use of alternative project delivery methods such as design-build-finance-operate-maintain as well as other project delivery methods; and



WHEREAS, City Charter Section 371(b) provides that where LAWA seeks to use the CSPA process, it may do so "in accordance with criteria established by ordinance adopted by at least a two-thirds vote of the Council" and upon a written finding that "adherence to the rule that the award be made to the lowest responsive and responsible bidder is not practicable or advantageous." Section 371(b) also authorizes use of alternative project delivery methods "when justified by the type of project and approved by the contracting authority; and

WHEREAS, adoption of ordinances that do not result in impacts on the physical environment is administratively exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.m of the Los Angeles City CEQA Guidelines; and

WHEREAS, actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 371(b);

NOW, THEREFORE, BE IT RESOLVED that the Board of Airport Commissioners adopted the Staff Report; determined that this action is administratively exempt from CEQA pursuant to Article II, Section 2.m of the Los Angeles City CEQA Guidelines; approved this request for City Council to consider and approve an Ordinance, attached hereto and made part hereof, allowing the Board of Airport Commissioners to authorize its Executive Director to let design-build-finance-operate-maintain or other alternative project delivery methods for select capital improvement projects related to the Facilities Maintenance Utilities Group Campus Relocation Project at Los Angeles International Airport in accordance with the Competitive Sealed Proposal Selection Process; and found that use of alternative project delivery methods and the Competitive Sealed Proposal Selection Process for select capital improvement projects related to the Facilities Maintenance Utilities Group Campus Relocation Project at Los Angeles International Airport should be authorized based on operational need, schedule, and technical aspects of these projects, and that awarding to the lowest responsive and responsible bidder is not practicable or advantageous.

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I hereby certify that this Resolution No. 26739 is true and correct, as adopted by the Board of Airport Commissioners at its Special Meeting held on Wednesday, April 10, 2019.



Grace Miguel – Secretary
BOARD OF AIRPORT COMMISSIONERS

ORDINANCE NO. _____

An ordinance authorizing the Department of Airports, also known as Los Angeles World Airports (LAWA) 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 (FMUG) at Los Angeles International Airport (LAX).

WHEREAS, Section 371(b) of the Los Angeles City Charter permits 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 FMUG project is a new development within a portion of Area 4 of the 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 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; and

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.

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.

Section 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.

Section 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.

Section 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: (i) relevant experience; (ii) evidence of bonding capability (iii) 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; (iv) updated financial and other relevant information sufficient to provide evidence of financial ability to complete the work; and (v) such other information as LAWA deems relevant and appropriate.

Section 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.

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

Section 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.

Section 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 insure 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.

Section 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. The BOAC shall document its findings regarding this determination.

Section 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 in the Main Street lobby to the City Hall; one copy on the bulletin board located in the Main Street entrance to the City Hall East; and one copy on the bulletin board located at the Temple Street entrance of 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 of its members, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By: _____ Deputy

APPROVED: _____

By: _____ Mayor

Approved as to Form and Legality

MICHEAL N. FEUER, City Attorney

By: _____
BRIAN OSTLER
Deputy City Attorney

Date _____

File No. _____