ORDINANCE NO. _____

An ordinance authorizing the Los Angeles Board of Harbor Commissioners to use alternative project delivery systems and the competitive sealed proposal selection method consistent with City Charter Sections 371 and 375 for capital improvement projects related to the Pier 500 Marine Container Terminal Project at the Port of Los Angeles.

WHEREAS, Section 371(b) of the 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 Los Angeles City Council (City Council), and also allows for the use of design-build or other appropriate project delivery systems when justified by the type of project and approved by the contracting authority;

WHEREAS, the purpose of this ordinance is to establish criteria for the letting of contracts pursuant to a competitive sealed proposal method and authorize the use of alternative project delivery systems for contracts between the Harbor Department and the successful contractor(s) for one or more of the procurement, pre-construction services, construction, finance, operations, maintenance and other related services for capital improvement projects related to the Pier 500 Marine Container Terminal Project at the Port of Los Angeles (Port), including components of such projects and their integration into facilities and operations at the Port (collectively, the Projects);

WHEREAS, time is of the essence and it is in the best interest of the City of Los Angeles (City) to expedite implementation of the Projects because, without the Projects, projected cargo growth at the Port is expected to put the Port at capacity within a decade;

WHEREAS, time is of the essence to shorten the overall disruption that the Port, Port tenants, and the general public will experience during construction of the Projects;

WHEREAS, it is advisable for the Harbor Department to use the competitive sealed proposal selection method and the construction manager-at-risk, design-build, progressive design-build, design-build-operate and maintain, design-build-finance-operate-maintain, public-private partnerships, or any other alternative project delivery systems, including pre-development agreements that could potentially result in the use of one or more project delivery systems during the implementation phase of such agreement, pursuant to the terms of this ordinance because this type of work is highly specialized, capital intensive and time critical, making it important that the contractors have the experience, financial capacity and expertise to carry it out in an accurate and timely manner;

WHEREAS, the City Council desires to authorize the Harbor Department to use the competitive sealed proposal selection method and alternative project delivery systems for the Projects;

WHEREAS, the City Council desires to establish the criteria for the letting of contracts by the Harbor Department pursuant to such competitive sealed proposal selection method;

WHEREAS, the City Council desires to authorize the Harbor Department to use the most efficient and effective procurement and contracting tools for the Projects and recognizes the need to modify otherwise applicable procurement and contract requirements, including requirements in Los Angeles Administrative Code Sections 10.14 and 10.15, to reflect the Harbor Department's use of alternative project delivery systems; and

WHEREAS, the City Council desires to authorize the Harbor Department to apply a uniform rate of interest to payments due and owning but not yet made on contracts related to the Projects.

NOW THEREFORE,

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

Section 1. Los Angeles Harbor Department (Harbor Department) may enter into a contract or contracts utilizing one or more alternate project delivery systems on a competitive sealed proposal basis, as provided herein, for the Projects. Such alternative project delivery systems may include, but are not limited to, construction manager-at-risk, design-build, progressive design-build, design-build-operate and maintain, design-build-finance-operate-maintain, public-private partnerships, or pre-development agreements, that could potentially result in the use of one or more project delivery methods during the implementation phase of such agreement, for the Projects, or any combination thereof. Such contracts shall be awarded by the Board of Harbor Commissioners (BOHC), on behalf of the Harbor Department, 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. Consistent with Charter Section 371, no award may be made to a proposer whose final proposal is higher as to ultimate cost to the City than any other responsive proposal submitted. In order to utilize these methods, BOHC shall make a written finding supported by a written statement of facts that award 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. The Harbor Department may engage in contract negotiations after proposals have been opened to allow clarification and changes in the proposal. The Harbor Department shall take adequate precaution to treat each proposer fairly.

Sec. 3. Proposals shall be solicited by issuing a request for proposal (RFP). Unless the RFP is preceded by a prequalification or shortlisting process, public notice of the RFP shall be given in writing or electronically to prospective contractors. The RFP shall state the time and place at which the proposals will be received by the Harbor

Department. Proposals received after the time and date specified 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: (i) relevant experience; (ii) a listing of subcontractors or a selection plan for subcontractors that meets specified requirements and which is sufficient to ensure that fair practices are used in such selection; (iii) updated financial and other relevant information sufficient to provide evidence of financial ability to complete the work; and (iv) such other information as the Harbor Department deems relevant and appropriate.

Sec. 5. 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. 6. 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. Except for the names of the proposers, information contained in the proposals, including price, shall not be disclosed until a recommendation for award is made to BOHC.

Sec. 7. Award shall only be made to the responsible and responsive proposer whose final proposal is most advantageous to the City, except that BOHC 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 BOHC shall document its findings regarding this determination.

Sec. 8. Pursuant to Subsection 7 of Section 10.14 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. The following requirements shall be established for the Projects in place of the sections waived:

2. **Listing of Subcontractors.** The Harbor Department 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:

(a) 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 of the prime contractor's total bid or $10,000, whichever is greater.

(b) 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.

5. **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. 9. Pursuant to Section 10.15(l) of the Los Angeles Administrative Code, the requirements of the first paragraph of Subsection (d) of Section 10.15 shall be waived for any procurement and contract under this ordinance. For purposes of the process authorized by this ordinance for the Projects, the following requirements shall be established in their place:

(d) Except as provided in Subsections (j) and (k), every proposal or bid shall be accompanied by a check certified by a responsible bank in the City of Los Angeles or a cashier's check issued by a responsible bank, payable to the order of the City of Los Angeles, for an amount specified by the contracting authority in the applicable procurement documents, or, in lieu thereof, may be accompanied by a satisfactory surety bond or letter of credit, in like amount, guaranteeing that the bidder or proposer will enter into the proposed contract if the same be awarded to it. In lieu of the foregoing an annual bid bond sufficient to cover any one proposal or bid, may be filed.

Sec. 10. Pursuant to Section 10.15(l) of the Los Angeles Administrative Code, the requirements of Subsection (g) of Section 10.15 shall be waived for any procurement and contract under this ordinance. For purposes of the process authorized by this ordinance for the Projects, the following requirements shall be established in place of the subsection waived:

(g) Except as provided in Subsection (i), by the deadlines and upon the terms and conditions specified by the contracting authority, the successful bidder shall execute the contract and post the faithful payment and performance bonds for construction work in the amounts and in the form specified by the contracting authority. The contracting authority will set the amounts of the bonds based on its determination of what is required to adequately ensure payment of subcontractors and protect the City's interests. The contracting authority may determine which entity or entities may provide the required bonds and the contracting authority may

forego requiring any such bonds for contracts or contract phases that do not include construction work.

Sec. 11. Pursuant to Charter Section 1022, the services advertised for pursuant to any RFP issued pursuant to this ordinance are for expert services which require knowledge and skills that are not available within LADWP and can therefore be performed more economically and feasibly by independent contractors.

Sec. 12. Notwithstanding any statute, code, or City ordinance or policy requiring earlier compliance, contractors identified in a bid or proposal for a contract that the Harbor Department procures under this ordinance are not required to comply with applicable licensing requirements until contract execution or financial close, as determined by the Harbor Department in its sole discretion.

Sec. 13. Notwithstanding any statute, code, or City ordinance or policy 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 procured under this ordinance.

Sec. 14. 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

HYDEE FELDSTEIN SOTO, City Attorney

By _____ for
JANET KARKANEN
Assistant City Attorney

Date February 24, 2026

File No. _____

[M:\Proprietary_OCC\Port\ORDINANCES AND REPORT\JANET KARKANEN\Ordinance re POLA Pier 500 Council Report - Final.docx]

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.

CITY CLERK

MAYOR

_____

_____

Ordinance Passed_____

Approved _____