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An act to amend Sections 6701, 6971, and 22161 of, and to add Section 20155.2 to, the Public Contract Code, relating to public contracts.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6701 of the Public Contract Code is amended to read:

6701. (a) The Construction Manager/General Contractor method provided by this chapter may be used by the department, but is not limited to, when it is anticipated that it will reduce project costs or expedite project completion in a manner that is not achievable through the design-bid-build method. Notwithstanding any other law, for projects utilizing the Construction Manager/General Contractor method provided by this chapter, the department shall advertise, award, and administer the Construction Manager/General Contractor contract. The department shall not delegate the contracting ~~authority~~ authority, except for the two projects reserved for projects in the County of Riverside as provided for in paragraph (2) of subdivision (b).

(b) (1) The department may use the Construction Manager/General Contractor method on no more than 12 projects, at least 10 of which shall have construction costs greater than ten million dollars (\$10,000,000).

(2) In recognition of the additional transportation funds made available by the Road Repair and Accountability Act of 2017 (Chapter 5 of the Statutes of 2017), and to accelerate the delivery of transportation projects to the public, the department may use the Construction Manager/General Contractor method on no more than 12 projects in addition to the projects authorized by paragraph (1). Consistent with Provision 2 of Item 2660-110-0042 of Section 2.00 of the Budget Act of 2016, as amended by Chapter 7 of the Statutes of 2017, two of the additional projects shall be authorized for projects in the County of Riverside and the Riverside County Transportation Commission may



use the Construction Manager/General Contractor method for these projects, with the first priority for the projects listed in that budget item.

(c) On at least ~~eight~~ 16 of the projects delivered by the department utilizing the Construction Manager/General Contractor method provided by this chapter, the department shall use department employees or consultants under contract with the department to perform all project design and engineering services related to design required for Construction Manager/General Contractor project delivery consistent with Article XXII of the California Constitution. On all ~~12 projects~~, projects delivered by the department the department shall use department employees or consultants under contract with the department to perform all construction inspection services required for Construction Manager/General Contractor project delivery consistent with Article XXII of the California Constitution. Department resources, including personnel requirements, necessary to perform all services described in this subdivision shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

(d) (1) The department shall prepare and submit to the Legislature, no later than July 1 of each year during which any project using the Construction Manager/General Contractor method is ongoing, a report that describes each project and provides relevant data, including, but not limited to, the stage of completion, district, cost, description, status, and estimated time to completion.

(2) The department shall prepare and submit to the Legislature, no later than July 1 of the year after any project using the Construction Manager/General Contractor



method has been completed, a report that includes, in addition to the data in paragraph (1), all of the following:

(A) Data on initial cost estimates, actual cost upon completion, and the reasons for any difference.

(B) Estimated time for completion, actual time of completion, and the reasons for any difference.

(C) The number and dollar value of any change orders for all projects completed using the Construction Manager/General Contractor method.

(e) (1) A report to be submitted pursuant to subdivision (d) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under subdivision (d) is inoperative on July 1 of the year following the submission of the final report upon completion of the fourth project of the department that uses the Construction Manager/General Contractor method.

SEC. 2. Section 6971 of the Public Contract Code is amended to read:

6971. For purposes of this chapter, the following definitions apply:

(a) "Construction manager" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting and engineering services as needed pursuant to a Construction Manager/General Contractor method contract.

(b) "Construction Manager/General Contractor method" means a project delivery method in which a construction manager is procured to provide preconstruction services during the design phase of the project and construction services during the construction phase of the project. The contract for construction services may be entered into at the



same time as the contract for preconstruction services, or at a later time. The execution of the design and the construction of the project may be in sequential phases or concurrent phases.

(c) "Preconstruction services" means advice during the design phase, including, but not limited to, scheduling, pricing, and phasing to assist the regional transportation agency to design a more constructible project.

(d) "Project" means ~~either~~ any of the following:

(1) The construction of an expressway that is not on the state highway system.

(2) The construction of the following bridges that are not on the state highway

system:

(A) Yerba Buena Island (YBI) West Side Bridges Seismic Retrofit Project.

(B) Yankee Jims Road Bridge Project in the County of Placer

(Replacement/Rehabilitation).

(3) The construction of railroad grade separations and bridge rehabilitations and replacements in the County of Riverside, as specified in Item 2660-110-0042 of Section 2.00 of the Budget Act of 2016, as amended by Chapter 7 of the Statutes of 2017.

(e) "Regional transportation agency" means any of the following:

(1) A transportation planning agency described in Section 29532 or 29532.1 of the Government Code.

(2) A county transportation commission established under Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.

(3) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.



(4) A joint exercise of powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(5) A local transportation authority created or designated pursuant to Division 12.5 (commencing with Section 131000) or Division 19 (commencing with Section 180000) of the Public Utilities Code.

(6) The Santa Clara Valley Transportation Authority established pursuant to Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code.

(7) The County of Placer.

(8) The County of Riverside.

SEC. 3. Section 20155.2 is added to the Public Contract Code, to read:

20155.2. (a) If a county as defined by Section 20155.1 is also responsible for delivery of a project included in Item 2660-110-0042 of Section 2.00 of the Budget Act of 2016, as amended by Chapter 7 of the Statutes of 2017, that county may utilize the "cost-plus-time" bidding procedure, also known as "A+B Bidding," under this chapter for any of the projects specified in that budget item.

(b) "Cost-plus-time bidding" means a competitive procurement process that uses a cost parameter (A) and a time parameter (B) to determine a bid value.

SEC. 4. Section 22161 of the Public Contract Code is amended to read:

22161. For purposes of this chapter, the following definitions apply:

(a) "Best value" means a value determined by evaluation of objective criteria that relate to price, features, functions, life-cycle costs, experience, and past



performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and meeting the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring agency, or a tradeoff between price and other specified factors.

(b) "Construction subcontract" means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.

(c) "Design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity.

(d) "Design-build entity" means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(e) "Design-build team" means the design-build entity itself and the individuals and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.

(f) "Local agency" means the following:

(1) A city, county, or city and county.



(2) A special district that operates wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities.

(3) Any transit district, included transit district, municipal operator, included municipal operator, any consolidated agency, as described in Section 132353.1 of the Public Utilities Code, any joint powers authority formed to provide transit service, any county transportation commission created pursuant to Section 130050 of the Public Utilities Code, or any other local or regional agency, responsible for the construction of transit projects.

(4) The San Diego Association of Governments, as referenced in the San Diego Regional Transportation Consolidation Act (Chapter 3 (commencing with Section 132350) of Division 12.7 of the Public Utilities Code).

(g) (1) ~~For~~ Except as specified in subdivision (h), for a local agency defined in paragraph (1) of subdivision (f), “project” means the construction of a building or buildings and improvements directly related to the construction of a building or buildings, county sanitation wastewater treatment facilities, and park and recreational facilities, but does not include the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure. For a local agency defined in paragraph (1) of subdivision (f) that operates wastewater facilities, solid waste management facilities, or water recycling facilities, “project” also means the construction of regional and local wastewater treatment facilities, regional and local solid waste facilities, or regional and local water recycling facilities.



(2) For a local agency defined in paragraph (2) of subdivision (f), “project” means the construction of regional and local wastewater treatment facilities, regional and local solid waste facilities, regional and local water recycling facilities, or fire protection facilities.

(3) ~~For~~ Except as specified in subdivision (h), for a local agency defined in paragraph (3) of subdivision (f), “project” means a transit capital project that begins a project solicitation on or after January 1, 2015. A “project,” as defined by this paragraph, that begins the solicitation process before January 1, 2015, is subject to Article 6.8 (commencing with Section 20209.5) of Chapter 1. “Project,” as defined by this paragraph, does not include state highway construction or local street and road projects.

(4) For a local agency defined in paragraph (4) of subdivision (f), “project” has the same meaning as in paragraph (3), and in addition shall include development projects adjacent, or physically or functionally related, to transit facilities developed or jointly developed by the local agency.

(h) In recognition of the additional transportation funds made available by the Road Repair and Accountability Act of 2017 (Chapter 5 of the Statutes of 2017), and to accelerate the delivery of transportation projects to the public, in addition to the authority provided in other subdivisions of this section, for a local agency defined in paragraph (1) or (3) of subdivision (f), for up to six projects to be selected by the Department of Transportation, a “project” also means construction or rehabilitation of local streets and roads, including, but not limited to, bridge replacement and railroad grade separations. Consistent with Provision 2 of Item 2660-110-0042 of Section 2.00 the Budget Act of 2016, as amended by Chapter 7 of the Statutes of 2017, three projects



shall be reserved for and selected by the Riverside County Transportation Commission, with the first priority for the projects listed in that budget item.

SEC. 5. Consistent with Provision 2 of Item 2660-110-0042 of Section 2.00 of the Budget Act of 2016, as amended by Chapter 7 of the Statutes of 2017, the five projects listed in that item are part of the Riverside County Transportation Efficiency Corridor and for purposes of delivery streamlining demonstration, the following shall apply:

(a) Notwithstanding subdivision (a) of Section 130232 of the Public Utilities Code, the 91 Toll Connector to Interstate 15 North project may be implemented through any delivery method authorized in law, including, but not limited to, the design-build method or construction manager/general contractor method.

(b) The project described in subdivision (a) may additionally be implemented through an amendment or change to any existing contract for the Interstate 15 express lanes construction project or the 91 express lanes, if the Riverside County Transportation Commission, with the concurrence of the Department of Transportation, finds that to be a cost-effective method to accelerate the delivery of that project.

SEC. 6. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances regarding transportation projects in the County of Riverside.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new



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crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Alternate project delivery.

(1) Existing law authorizes the Department of Transportation to engage in a Construction Manager/General Contractor (CM/GC) project delivery method, as specified, for projects for the construction of a highway, bridge, or tunnel. Existing law authorizes the department to use the CM/GC method on no more than 12 projects, and requires at least 10 of those projects to have construction costs greater than \$10,000,000. Existing law prohibits the department from delegating the contracting authority. Existing law requires specified information provided to the department pursuant to these provisions to be verified under oath.

This bill would authorize the department to enter into a contract using this method on 12 additional projects. The bill would authorize 2 of those additional projects to be authorized for projects in the County of Riverside. The bill would authorize the department to delegate contracting authority for those 2 projects and would authorize



the Riverside County Transportation Commission (RCTC) to use the CM/GC method for these projects, with the first priority for projects listed in a specific item of the Budget Act of 2016, as amended. By expanding the authorization to use this method, the bill would expand the scope of the crime of perjury, thus imposing a state-mandated local program.

(2) Existing law authorizes regional transportation agencies, as defined, to use the CM/GC project delivery method, as specified, to design and construct certain expressways that are not on the state highway system if there is an evaluation of the traditional design-bid-build method of construction and of the CM/GC method and the board of the regional transportation agency adopts the method in a public meeting. Existing law defines the term “project” for these purposes to mean either the construction of an expressway that is not on the state highway system or the construction of specified bridges that are not on the state highway system. Existing law defines the term “regional transportation agency” for these purposes to include a joint powers agency established pursuant to the Joint Exercise of Powers Act and with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

This bill would include in the definition of “project” the construction of railroad grade separations and bridge rehabilitations and replacements in the County of Riverside, as specified in a specific item of the Budget Act of 2016, as amended. The bill would include the County of Riverside in the definition of the term “regional transportation agency.”



(3) The Local Agency Public Construction Act, until January 1, 2020, establishes a pilot program to allow the Counties of Alameda, Los Angeles, Riverside, San Bernardino, San Diego, Solano, and Yuba to select a bidder on the basis of best value, as defined, for specific construction projects.

This bill would authorize each of those counties, if the county is also responsible for delivery of a project included in a specific item of the Budget Act of 2016, as amended, to utilize the cost-plus-time bidding procedure for any of the projects specified in that budget item. The bill would define “cost-plus-time” bidding for that purpose.

(4) Existing law, until January 1, 2025, authorizes local agencies to use the design-build procurement process for public works projects. Existing law defines “local agency” as cities and counties, certain special districts relating to wastewater, solid waste, water recycling, and fire protection facilities, various governmental entities responsible for the construction of transit projects, and the San Diego Association of Governments. Existing law defines “project” specifically for each described category of local agency. Existing law defines “project” for cities and counties to mean the construction of a building or buildings and improvements directly related to the construction of a building or buildings, county sanitation wastewater treatment facilities, and park and recreational facilities, but excludes the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure. Existing law defines “project” for transit entities to mean a transit capital project that begins a project solicitation on or after January 1, 2015, and excludes state highway construction or local street and road projects.



This bill would expand the project definitions for cities and counties and for transit districts, for up to 6 projects to be selected by the department, to include construction or rehabilitation of local streets and roads, including, but not limited to, bridge replacement and railroad grade separations. The bill would require 3 projects to be reserved for and selected by the RCTC, with the first priority for the projects listed in a specific budget item of the Budget Act of 2016, as amended.

(5) The contracting provisions of the County Transportation Commissions Act require that the purchase by the RCTC, of all supplies, equipment, and materials, and the construction of all facilities and works, in excess of \$25,000, be by contract let to the lowest responsible bidder.

Existing law amends the Budget Act of 2016 to add an item of appropriation from the State Highway Account to the department for local assistance for the Riverside County Transportation Efficiency Corridor and establishes a schedule of funds for specific projects.

This bill would authorize the implementation of the 91 Toll Connector to Interstate 15 North project through any delivery method authorized in law, including, but not limited to, the design-build method or CM/GC method. The bill would additionally authorize that project to be implemented through an amendment or change to any existing contract for the Interstate 15 express lanes construction project or the 91 express lanes, if the RCTC, with the concurrence of the department, finds that to be a cost-effective method to accelerate the delivery of that project.

(6) This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Riverside.



(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

