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**AB-1475 Construction Manager/General Contractor method: transportation projects.** (2019-2020)

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**Assembly Bill No. 1475**

**CHAPTER 289**

An act to amend Sections 6702 and 6971 of the Public Contract Code, relating to public contracts.

[ Approved by Governor September 12, 2019. Filed with Secretary of State September 12, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1475, Bauer-Kahan. Construction Manager/General Contractor method: transportation projects.

Existing law authorizes the Department of Transportation to engage in a Construction Manager/General Contractor project delivery method (CM/GC method), as specified, for projects for the construction of a highway, bridge, or tunnel that has construction costs greater than \$10,000,000. Existing law defines "construction manager" for that purpose to mean a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting and engineering services as needed pursuant to a CM/GC method contract.

This bill would revise that definition to mean such an entity that is a licensed contractor pursuant to the Contractors' State License Law and that is able to provide, or that contracts with entities that are able to provide, appropriately licensed contracting or engineering services, or both appropriately licensed contracting and engineering services, as needed pursuant to a CM/GC method contract.

Existing law authorizes regional transportation agencies, as defined, to use the CM/GC method, as specified, to design and construct certain projects, 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 procurement strategy in a public meeting. Existing law defines "construction manager" for these purposes in the same manner as described for the department's CM/GC method authorization. Existing law defines the term "project" for these purposes to include expressways that are not on the state highway system and specified bridges that are not on the state highway system. Existing law requires specified information submitted under the CM/GC method to be verified under oath.

This bill, with regard to regional transportation agencies, would revise the definition of "construction manager" in the same manner as described for the department's CM/GC method authorization. The bill would also expand the authorization to use the CM/GC method under these provisions by expanding the definition of the term "project" to include any other transportation project that is not on the state highway system. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program.

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 Local Program: yes

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

**SECTION 1.** Section 6702 of the Public Contract Code is amended to read:

**6702.** As used in this chapter, the following terms have the following meanings:

(a) "Construction manager" means a partnership, corporation, or other legal entity that is a licensed contractor pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code and that is able to provide, or that contracts with entities that are able to provide, appropriately licensed contracting or engineering services, or both 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) "Department" means the Department of Transportation as established under Part 5 (commencing with Section 14000) of Division 3 of Title 2 of the Government Code.

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

(e) "Project" means the construction of a highway, bridge, or tunnel.

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

**6971.** (a) The Legislature finds and declares that the County of Riverside should be considered a transportation planning agency for the purposes of this chapter in order to effectuate the construction of the railroad grade separations and bridge rehabilitations and replacements specified in subparagraph (C) of paragraph (4) of subdivision (b) using Construction Manager/General Contractor authority. The passage of the Road Repair and Accountability Act of 2017 (Chapter 5 of the Statutes of 2017) provides additional transportation revenue to help close the significant funding shortfalls and address the substantial backlog of infrastructure projects that are in need of repair. The geography, topography, and location of these railroad grade separations and bridge rehabilitations and replacements projects present many potential complex challenges, and the Construction Manager/General Contractor method could reduce delays and ensure that those challenges are fully understood at the outset of construction.

(b) For purposes of this chapter, the following definitions apply:

(1) "Construction manager" means a partnership, corporation, or other legal entity that is a licensed contractor pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code and that is able to provide, or that contracts with entities that are able to provide, appropriately licensed contracting or engineering services, or both appropriately licensed contracting and engineering services, as needed pursuant to a Construction Manager/General Contractor method contract.

(2) "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.

(3) "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.

(4) "Project" means any of the following:

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

(B) The construction of the following bridges that are not on the state highway system:

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

(ii) Yankee Jims Road Bridge Project in the County of Placer (Replacement/Rehabilitation).

(C) 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.

(D) The construction, alteration, repair, rehabilitation, or improvement of the Golden Gate Bridge, as defined in Section 27502 of the Streets and Highways Code.

(E) A Metrolink commuter rail project.

(F) Any transportation project that is not on the state highway system.

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

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

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

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

(D) 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.

(E) 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.

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

(G) The County of Placer.

(H) The County of Riverside.

(I) The Golden Gate Bridge, Highway and Transportation District established pursuant to Chapter 18 (commencing with Section 27500) of Part 3 of Division 16 of the Streets and Highways Code.

(c) This section does not extend any other authority to the County of Riverside or the Golden Gate Bridge, Highway and Transportation District as a transportation planning agency under any other law.

**SEC. 3.** 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 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.