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**AB-1833 San Diego Metropolitan Transit Development Board: North County Transit District:
consolidated agency: public contracting. (2021-2022)**

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Assembly Bill No. 1833

CHAPTER 110

An act to amend Sections 120222, 125222, and 132352.4 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 19, 2022. Filed with Secretary of State July 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1833, Ward. San Diego Metropolitan Transit Development Board: North County Transit District: consolidated agency: public contracting.

The Mills-Deddeh Transit Development Act establishes the San Diego Metropolitan Transit Development Board, also known as the San Diego Metropolitan Transit System, with specified powers and duties related to the operation of public transit services in a portion of the County of San Diego.

The North County Transit District Act creates the North County Transit District with specified powers and duties related to the operation of public transit services in a different portion of the County of San Diego.

The San Diego Regional Transportation Consolidation Act creates the consolidated agency, commonly known as the San Diego Association of Governments (SANDAG), through the consolidation of certain regional transportation planning, programming, and related functions in the County of San Diego from various agencies.

Existing law requires the board, district, and consolidated agency to follow specified procedures when contracting for certain services, the acquisition or lease of materials, supplies, or equipment, architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services. Existing law requires those entities to follow different procedures when the amount of the contract exceeds specified thresholds.

This bill would increase those thresholds from \$100,000, or \$50,000 in certain instances, to \$150,000, and would make other clarifying changes, as specified.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 120222 of the Public Utilities Code is amended to read:

120222. (a) The Legislature finds and declares that a compelling interest exists in ensuring that all federal, state, local, and private funds available to the board are captured and used in a timely manner. In order to maximize the use of federal, state,

local, and private funds and to maintain a competitive posture in seeking supplemental federal funds, the board may establish and use a flexible contracting process to maximize its efficient use of public funds.

(b) Except in cases when an article of a specified brand or trade name is the only article that will properly meet the needs of the board or in an emergency declared by the vote of two-thirds of the membership of the board, all contracts for the acquisition or lease of materials, supplies, or equipment in an amount of one hundred fifty thousand dollars (\$150,000), or in excess of that amount as authorized by the board, shall be made or entered into with the lowest responsible bidder meeting specifications. For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid. When the expected purchase amount of the contract equals or exceeds five thousand dollars (\$5,000) and is less than one hundred fifty thousand dollars (\$150,000), the board shall seek a minimum of three quotations, either written or oral, to permit comparison of prices and other terms.

(c) Except in cases of an emergency declared by the vote of two-thirds of the membership of the board, the board shall for all contracts for the acquisition of services that exceed one hundred fifty thousand dollars (\$150,000), that will not be performed by an entity described in Section 120221.5, and that are not within a category of services defined in Section 4525 of the Government Code, solicit bids in writing and award the contract in a competitive procurement process that is in the best interest of the board, including, but not limited to, a negotiated procurement that may evaluate price as a consideration. When the expected amount of the service contract equals or exceeds five thousand dollars (\$5,000) and does not exceed one hundred fifty thousand dollars (\$150,000), the board shall seek a minimum of three quotations, either written or oral, to permit comparison of prices and other terms.

(d) The board shall award contracts for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services that are in excess of one hundred fifty thousand dollars (\$150,000) in accordance with Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Notwithstanding this chapter, the board may use any procurement method authorized for state or local agencies under state or federal law, including, but not limited to, a competitive negotiation process in accordance with the provisions of Article 7.5 (commencing with Section 20216) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code. The board shall maintain acquisition and contracting guidelines and comply with those guidelines in the procurement of all goods and services.

(f) Provisions in any federally funded contract concerning disadvantaged business enterprises that are in accordance with the request for proposals shall not be subject to negotiation with the successful bidder.

SEC. 2. Section 125222 of the Public Utilities Code is amended to read:

125222. (a) The Legislature finds and declares that a compelling interest exists in ensuring all federal, state, local, and private moneys available to the district are captured and used in a timely manner.

(b) In order to maximize the use of federal, state, local, and private funds, and to maintain a competitive posture in seeking supplemental federal funds, the board may establish and use a flexible contracting process, consistent with this division, to maximize its efficient use of public funds.

(c) For the acquisition or lease of materials, supplies, or equipment, except in cases where an item of a specified brand or trade name is the only item that will properly meet the needs of the district or in an emergency declared by the vote of two-thirds of all the members of the board, all contracts shall be awarded as follows:

(1) A contract with an expected cost that equals or exceeds one hundred fifty thousand dollars (\$150,000), as authorized by the board, shall be made or entered into with the lowest responsible bidder that meets the specifications. For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid.

(2) A contract with an expected cost that does not equal or exceed one hundred fifty thousand dollars (\$150,000) shall be made or entered into using a district-approved competitive procurement process. When the expected cost of a contract equals or exceeds five thousand dollars (\$5,000) and does not equal or exceed one hundred fifty thousand dollars (\$150,000), the district shall seek a minimum of three quotations, either written or oral, to permit comparison of prices and other terms.

(d) For the acquisition of services that are not within a category of services described in Section 4525 of the Government Code, except in cases of an emergency declared by a vote of two-thirds of the membership of the board, all contracts shall be awarded as follows:

(1) A contract with an expected cost that equals or exceeds one hundred fifty thousand dollars (\$150,000) shall be made and entered into by soliciting bids in writing and awarding the contract using a district-approved competitive procurement process, including, but not limited to, a negotiated procurement that may or may not evaluate price as a consideration.

(2) A contract with an expected cost that does not equal or exceed one hundred and fifty thousand dollars (\$150,000) shall be made or entered into using a district-approved competitive procurement process. When the expected cost of a service contract equals or exceeds five thousand dollars (\$5,000) and does not equal or exceed one hundred fifty thousand dollars (\$150,000), the district shall seek a minimum of three quotations, either written or oral, to permit comparison of prices and other terms.

(e) The board shall award contracts for architectural, landscape architectural, engineering, environmental, and land surveying services, and construction project management services, as those services are described in Section 4525 of the Government Code, in accordance with Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(f) Notwithstanding this chapter, the board may use any approved competitive procurement process authorized for state or local agencies under state or federal law, including, but not limited to, a competitive negotiation process in accordance with Article 7.5 (commencing with Section 20216) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code. The board shall maintain acquisition and contracting guidelines and comply with those guidelines in the procurement of all goods and services.

(g) Provisions that are in a federally funded contract concerning disadvantaged business enterprises and that are in accordance with the request for proposals shall not be subject to negotiation with the successful bidder.

SEC. 3. Section 132352.4 of the Public Utilities Code is amended to read:

132352.4. (a) The Legislature finds and declares that there is a compelling interest in ensuring that all federal, state, local, and private funds available to the consolidated agency are captured and used in a timely manner. In order to maximize the use of federal, state, local, and private funds and to maintain a competitive posture in seeking supplemental federal funds, the consolidated agency may establish and use a flexible contracting process to maximize efficient use of public funds.

(b) The consolidated agency may do any of the following with regard to contracting:

(1) The consolidated agency may make contracts and enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and hold harmless, and to do all acts necessary for, incidental to, or convenient for the full exercise of the powers granted in this chapter.

(2) The consolidated agency may contract with any department or agency of the United States or the State of California, local governmental authorities within or outside of the region, including those in Mexico, or any city, county, public district, public corporation, or joint powers authority formed pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code) upon those terms and conditions as the consolidated agency finds are for the best interests of the consolidated agency.

(3) If the estimated total cost of any construction project or public works project will exceed fifty thousand dollars (\$50,000), the consolidated agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. The consolidated agency shall establish rules for procurement of construction of public works projects.

(4) Except in cases when an article of a specified brand or trade name is the only article that will properly meet the needs of the consolidated agency, all contracts for the acquisition or lease of materials, supplies, or equipment in an amount of one hundred fifty thousand dollars (\$150,000), or a higher amount as authorized by the board, shall be made or entered into with the lowest responsible bidder meeting specifications. For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid.

(5) If the estimated total cost of required services equals or exceeds one hundred fifty thousand dollars (\$150,000), the services will not be performed by an entity described in paragraph (2), and the services are not within the category of services defined in Section 4525 of the Government Code, the consolidated agency shall solicit bids in writing and shall award the work in a competitive procurement process that is in the best interest of the consolidated agency.

(6) Contracts for architectural, landscape architectural, engineering, environmental, land surveying services, and construction project management services in excess of one hundred fifty thousand dollars (\$150,000) shall be let in accordance with Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(7) Notwithstanding this chapter, the consolidated agency may use any procurement method authorized for state or local agencies by state or federal law, including, but not limited to, use of a competitive negotiation process in accordance with Article 7.5 (commencing with Section 20216) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code. The consolidated agency shall maintain acquisition and contracting guidelines to be followed by the consolidated agency with respect to procurement of goods and services. These guidelines may be in the form of standard formats or model formats.