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AB-1845 Metropolitan Water District of Southern California: alternative project delivery methods. (2021-2022)

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Assembly Bill No. 1845

CHAPTER 275

An act to amend Section 21565 of, and to add Article 121.1 (commencing with Section 21568) to Chapter 1.5 of Part 3 of Division 2 of, the Public Contract Code, relating to public contracts.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1845, Calderon. Metropolitan Water District of Southern California: alternative project delivery methods.

Existing law generally sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by local agencies for public works contracts. Existing law authorizes certain entities, including the Department of General Services, the Military Department, the Department of Corrections and Rehabilitation, and specified local agencies, to use the design-build procurement process, as prescribed, for specified public works.

This bill would authorize the Metropolitan Water District of Southern California to use the design-build procurement process for certain regional recycled water projects or other water infrastructure projects. The bill would define "design-build" to mean a project delivery process in which both the design and construction of a project are procured from a single entity. The bill would require the district to use a specified design-build procedure to assign contracts for the design and construction of a project, as defined.

Existing law authorizes the Director of General Services to use the progressive design-build procurement process for certain public works projects.

This bill would authorize the Metropolitan Water District of Southern California to use the progressive design-build procurement process for regional recycled water projects or other water infrastructure projects under specified conditions. The bill would define "progressive design-build" to mean a project delivery process in which both the design and construction of a project are procured from a single design-build entity that is selected through a qualifications-based selection at the earliest feasible stage of the project. The bill would require a progressive design-build contract be awarded on a best value or qualifications basis or to the lowest responsible bidder. The bill would require the district, if using this process, to prepare and issue a request for qualifications in order to select a design-build entity based on certain factors.

Existing law authorizes certain entities, including the Department of Transportation, the Department of Water Resources, regional transportation agencies, and the San Diego Association of Governments, to engage in a Construction Manager/General Contractor project delivery method (CM/GC method) for specified public work projects.

This bill would authorize the Metropolitan Water District of Southern California to utilize the CM/GC method for regional recycled water projects or other water infrastructure projects under specified conditions. The bill would define the CM/GC method generally

as 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, whereby construction services may be entered into at the same time as the contract for preconstruction services or at a later time. The bill would require a CM/GC method contract be awarded on a best value or qualifications basis or to the lowest responsible bidder. The bill would specify the procedure for CM/GC projects, including, among other things, requiring the district to select a construction manager through a request for qualifications, as prescribed.

The bill would permit the use of alternative project delivery methods on no more than 15 capital outlay projects. The bill would also prohibit a design-build entity, construction manager, or construction contractor from being awarded a construction contract unless it provides an enforceable commitment to the district that the design-build entity, construction manager, or construction contractor and its subcontractors at every tier will use a skilled and trained workforce to perform project work applicable to certain apprenticeable occupations in the building and construction trades, in accordance with existing law, and subject to certain exceptions. By expanding the application of the crime of perjury for a violation of certain certification and skilled and trained workforce requirements, the bill would impose a state-mandated local program.

The bill would require the district to submit to the relevant committees of the Legislature, on or before January 1, 2027, a report containing a description of each public works project procured by the district through the progressive design-build process that is completed after January 1, 2023, and before December 1, 2026, and a report containing a description of each CM/GC project approved through the processes described in these provisions, specified.

The bill would make its provisions pertaining to the progressive design-build and CM/GC methods effective only until January 1, 2028. The bill would provide that its provisions pertaining to design-build remain in effect in accordance with a related provision governing local agency design-build projects, which is repealed on January 1, 2025.

Existing law generally requires the board, when work is not performed by a district itself by force account and the amount involved is \$25,000 or more, to provide for the letting of contracts to the lowest responsible bidder, after publication of notices inviting bids, and subject to the right of the board to reject proposals.

This bill would create an exception to those provisions for the alternative project delivery methods authorized by this bill.

The bill would make legislative findings and declarations as to the necessity of a special statute for the geographic area served by the Metropolitan Water District of Southern California.

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 21565 of the Public Contract Code is amended to read:

21565. Except as otherwise provided in Article 121.1 (commencing with Section 21568) of this chapter, whenever any work is not to be done by the district itself by force account, and the amount involved shall be twenty-five thousand dollars (\$25,000) or more, the board shall provide for the letting of contracts to the lowest responsible bidder, after publication of notices inviting bids, but subject to the right of the board to reject any and all proposals.

SEC. 2. Article 121.1 (commencing with Section 21568) is added to Chapter 1.5 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 121.1. Metropolitan Water District of Southern California - Alternative Project Delivery Program

21568. (a) The Legislature finds and declares that severe drought conditions and climate change have negatively impacted the imported water supplies of the Metropolitan Water District of Southern California, necessitating an increase in local water supplies, including recycled water, and the construction of water infrastructure to more efficiently transport limited water supplies within the district's service area.

(b) The Legislature further finds and declares that alternative project delivery, using the best value procurement methodology, has been authorized for various agencies that have reported benefits from those projects not achievable through the traditional design-bid-build method, including reduced project costs and expedited project start and completion.

(c) This article provides for a range of procurement methods for district projects, including a planned regional recycled water project, designed to counteract the negative impacts of severe and ongoing drought and the continuing impacts of climate change on water supplies in southern California.

(d) It is the intent of the Legislature in enacting this article to authorize the district to utilize the methods specified herein as cost-effective options for accelerating the construction of drought-resilient water infrastructure projects.

21568.1. (a) Upon approval by its governing body, the Metropolitan Water District of Southern California may use, in addition to other methods of project delivery otherwise allowable by law, the following methods of project delivery for a regional recycled water project or other water infrastructure project undertaken by the district to alleviate water supply shortages attributable to drought or climate change:

(1) Design-build.

(2) Progressive design-build.

(3) Construction Manager/General Contractor method.

(b) (1) A design-build contract shall be awarded pursuant to Chapter 4 (commencing with Section 22160).

(2) A progressive design-build contract or a Construction Manager/General Contractor method contract shall be awarded on a best value or qualifications basis or to the lowest responsible bidder.

(c) The authority under this article shall apply to no more than 15 capital outlay projects.

(d) The district shall develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for the district relating to the solicitation of a design-build or progressive design-build project to submit a proposal as a design-build entity, or to join a design-build team.

21568.2. As used in this article:

(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 district and meeting the objectives of the project.

(b) "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 appropriately licensed contracting and engineering services as needed pursuant to a Construction Manager/General Contractor method contract.

(c) "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.

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

(e) "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.

(f) "District" means the Metropolitan Water District of Southern California.

(g) "Guaranteed maximum price" means the maximum payment amount agreed upon by the district and the design-build entity or the Construction Manager/General Contractor for the design-build entity or the Construction Manager/General Contractor to finish all remaining design, preconstruction, and construction activities sufficient to complete and close out the project.

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

(i) "Progressive design-build" means a project delivery process in which both the design and construction of a project are procured from a single design-build entity that is selected through a qualifications-based selection at the earliest feasible stage of the project.

(j) "Project" means a public work necessary for the construction of a recycled water facility or infrastructure designed specifically to alleviate water shortages attributable to drought, climate change, or other environmental factors.

21568.3. (a) The district shall follow the design-build procedure described in Chapter 4 (commencing with Section 22160) to award a design-build contract pursuant to this article.

(b) For purposes of this section, all references in Chapter 4 (commencing with Section 22160) to "county" and "local agency" shall mean the district, as defined in subdivision (f) of Section 21568.2.

21568.4. The procurement process for progressive design-build projects shall proceed as follows:

(a) The district shall prepare and issue a request for qualifications in order to select a design-build entity to execute the project. The request for qualifications shall include, but need not be limited to, the following elements:

(1) Documentation of the size, type, and desired design character of the project and any other information deemed necessary to describe adequately the district's needs, including the expected cost range, the methodology that will be used by the district to evaluate the design-build entity's qualifications, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity.

(2) Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The district may require that a preliminary cost estimate, including the basis for the estimate, be included in the design-build entities' responses and may consider those costs in evaluation of the statements of qualifications.

(3) The relative importance or the weight assigned to each of the factors identified in the request for qualifications.

(4) A request for statements of qualifications with a template for the statement that is prepared by the district. The district shall require all of the following information in the statement and indicate, in the template, that the following information is required:

(A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the entity's shareholders, partners, or members known at the time of the statement of qualification submission who will perform work on the project.

(B) Evidence that the members of the design-build team have completed, or have demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.

(C) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(E) Information concerning workers' compensation experience history and a worker safety program.

(F) If the proposed design-build entity is a corporation, limited liability company, partnership, joint venture, or other legal entity, a copy of the organizational documents or agreement committing to form the organization.

(G) An acceptable safety record. A proposer's safety record shall be deemed acceptable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the proposer is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(5) The information required under this subdivision shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

(b) At the close of the solicitation period, the district shall review the submissions. The district may evaluate submissions based solely upon the information provided in each design-build entity's statement of qualifications. The district may also interview some or all of the design-build entities to further evaluate their qualifications for the project.

(c) Notwithstanding any other provision of this code, upon issuance of a contract award, the district shall publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award.

The statement regarding the district's contract award and the contract file shall provide sufficient information to satisfy an external audit.

(d) After selecting a design-build entity based on qualifications, the district may enter into a contract and direct the design-build entity to begin design and preconstruction activities sufficient to establish a guaranteed maximum price for the project.

(e) (1) Upon agreement of the guaranteed maximum price for the project, the district, at its sole and absolute discretion, may amend its contract with the design-build entity to contract for the remaining design, preconstruction, and construction activities sufficient to complete and close out the project, and will amend the contract to be consistent with the guaranteed maximum price. In the event that there are unforeseen site conditions or changes initiated at the request of the district, the guaranteed maximum price shall be modified if necessary.

(2) If the costs for completing all remaining design, preconstruction, and construction activities sufficient to complete and close out the project exceed the guaranteed maximum price, the costs exceeding the guaranteed maximum price shall be the responsibility of the design-build entity. If the costs for these activities are less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the costs and the guaranteed maximum price, unless there is a prior written agreement concerning sharing of these proceeds. For purposes of this section, cost shall include the design-build entity's direct costs, general conditions, overhead, and fee.

(f) If the district and the design-build entity do not reach agreement on a guaranteed maximum price, or the district otherwise elects not to amend the design-build entity's contract to complete the remaining work, the district may solicit proposals to complete the project from other firms that submitted statements of qualifications or requests for proposals. The district may also, upon written determination that it is in the best interest of the district to do so, formally solicit proposals from other design-build entities.

(g) (1) The district, in each design-build request for qualifications, may identify specific types of subcontractors that shall be included in the design-build entity's statement of qualifications. All construction subcontractors that are identified in the statement of qualifications shall be afforded the protections of Chapter 4 (commencing with Section 4100) of Part 1.

(2) Following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications, the design-build entity shall proceed as listed in this subdivision in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work.

(A) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the district, including a fixed date and time on which qualifications statements, bids, or proposals will be due.

(B) Establish reasonable qualification criteria and standards.

(C) Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing.

(3) Subcontractors awarded construction subcontracts under this subdivision shall be afforded all the protections of Chapter 4 (commencing with Section 4100) of Part 1.

(4) A construction subcontractor licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code that provides design services used on a project authorized by this section shall not be subject to any liability arising from their design if the construction subcontract for that design is not performed by that subcontractor.

(5) If the district and the design-build entity do not reach agreement on a guaranteed maximum price, or the district otherwise elects not to amend the design-build entity's contract to complete the remaining work, and the district elects to contract with a new design-build entity to complete the remaining work, the design professionals responsible for performing design services on behalf of the design-build entity shall have sole liability for their design errors and omissions.

(h) (1) The district shall submit to the relevant committees of the Legislature, on or before January 1, 2027, a report containing a description of each public works project procured by the district through the progressive design-build process described in this article that is completed after January 1, 2023, and before December 1, 2026.

(2) The report shall include, but is not limited to, all of the following information:

(A) A description of the project and the design-build entity that was awarded the contract for the project.

(B) The initial estimated, actual final project costs, and guaranteed maximum price.

(C) An assessment of the selection process and criteria required by this article.

(D) An assessment of the effects of the progressive design-build process described in this article on cost and schedule for the project.

(E) The number of specialty subcontractors listed by construction trade type, on each project, that provided construction services, but did not meet the target price for their scope of work.

(F) Whether or not any portion of a design prepared by the specialty subcontractor that did not perform the construction work for that design was used by the district.

(G) In instances where the district determined that the guaranteed maximum price of any subcontract exceeded the anticipated target price for that portion of the project, which subcontracts were impacted and on what basis the district determined what the anticipated target price was.

(H) The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a small business under subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

(I) The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a microbusiness under paragraph (2) of subdivision (d) of Section 14837 of the Government Code.

(3) The report shall be submitted in compliance with Section 9795 of the Government Code and may be combined with the report required pursuant to Section 21568.5.

21568.5. The procurement process for Construction Manager/General Contractor method projects shall proceed as follows:

(a) (1) The district shall establish a procedure for the evaluation and selection of a construction manager through a request for qualifications (RFQ). The RFQ shall include, but not be limited to, the following:

(A) If the construction manager is a partnership, limited partnership, or other association, a list of all the partners, general partners, or association members known at the time of the statement of qualifications submission who will participate in the Construction Manager/General Contractor method contract.

(B) Evidence that the members of the construction manager have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete construction of the project, as well as a financial statement that assures the district that the construction manager has the capacity to complete the project, construction expertise, and an acceptable safety record.

(C) The licenses, registration, and credentials required to construct the project, including information on the revocation or suspension of any license, registration, or credential.

(D) Evidence that establishes the construction manager has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of the Labor Code), or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against any member of the construction manager, and information concerning workers' compensation experience history and worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance in which a construction manager, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(G) Any instance in which the construction manager, or its owners, officers, or managing employees, defaulted on a construction contract.

(H) Any violations of the Contractors State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of the Federal Insurance Contributions Act (26 U.S.C. Sec. 3101 et seq.) withholding requirements settled against any member of the construction manager.

(I) Information concerning the bankruptcy or receivership of any member of the construction manager, including information concerning any work completed by a surety.

(J) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the construction manager during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars (\$50,000). Information shall also be provided concerning any work completed by a surety during this period.

(K) In the case of partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the contract.

(L) For the purpose of this paragraph, a construction manager's safety record shall be deemed acceptable if their experience modification rate for the most recent three-year period is an average of 1.00 or less, and their average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical requirements for its business category.

(2) The information required pursuant to this subdivision shall be verified under oath by the construction manager and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall not be open to public inspection.

(b) For each RFQ, the district shall generate a final list of qualified persons or firms that participated in the RFQ prior to entering into negotiations on the contract for which the RFQ applies.

(c) (1) For each contract included in the RFQ, the district shall enter into negotiations for the contract with the highest qualified person or firm on the final list for that contract. However, if the RFQ is for multiple contracts and specifies that all of the multiple contracts will be awarded to a single construction manager, there may be a single negotiation for all the multiple contracts. The negotiations shall include consideration of compensation and other contract terms that the district determines to be fair and reasonable to the district. In making this decision, the district shall take into account the estimated value, the scope, the complexity, and the nature of the professional services or construction services to be rendered. If the district is not able to negotiate a satisfactory contract with the highest qualified person or firm on the final list regarding compensation and on other contract terms the district determines to be fair and reasonable, the district shall formally terminate negotiations with that person or firm. The district may undertake negotiations with the next most qualified person or firm on the final list in sequence until an agreement is reached or a determination is made to reject all persons or firms on the final list.

(2) If a contract for construction services is entered into pursuant to this section and includes preconstruction services by the construction manager, the district shall enter into a written contract with the construction manager for preconstruction services under which contract the district shall pay the construction manager a fee for preconstruction services in an amount agreed upon by the district and the construction manager. The preconstruction services contract may include fees for services to be performed during the contract period, provided, however, that the district shall not request or obtain a fixed price or a guaranteed maximum price for the construction contract from the construction manager or enter into a construction contract with the construction manager until after the district has entered into a preconstruction services contract. A preconstruction services contract shall provide for the subsequent negotiation for construction of all or any discrete phase or phases of the project.

(3) A contract for construction services shall be awarded after the plans have been sufficiently developed and either a fixed price or a guaranteed maximum price has been successfully negotiated. In the event that a fixed price or a guaranteed maximum price is not negotiated, the district shall not award the contract for construction services.

(4) The district is not required to award the construction services contract.

(5) Construction shall not commence on any phase, package, or element until the district and a construction manager agree in writing on either a fixed price that the district will pay for the construction to be commenced or a guaranteed maximum price for the construction to be commenced and a construction schedule for the project.

(d) All subcontractors bidding on contracts pursuant to this article shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The construction manager shall do all of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the district.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this article.

(3) Comply with any subcontracting procedures adopted by the district that were included in the district's RFQ. If the district has adopted procedures to prequalify public works contractors, the construction manager may use the procedures to prequalify subcontractors.

(e) (1) The district shall submit to the relevant committees of the Legislature, on or before January 1, 2027, a report that describes each Construction Manager/General Contractor project approved under this article.

(2) The report shall provide relevant data on each project that includes, but is not limited to, all of the following:

(A) The cost of the project.

(B) The state of completion for the project.

(C) The estimated time of completion for the project.

(D) A comprehensive assessment of the effectiveness of the Construction Manager/General Contractor project delivery method relative to project cost and time savings.

(3) The report shall be submitted in compliance with Section 9795 of the Government Code and may be combined with the report required pursuant to Section 21568.4.

21568.6. (a) A design-build entity, construction manager, or construction contractor shall not be awarded a construction contract unless it provides an enforceable commitment to the district that the design-build entity, construction manager, or construction contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeshipable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(b) This subdivision shall not apply if any of the following requirements are met:

(1) The district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the design-build entity, construction manager, or construction contractor agrees to be bound by that project labor agreement.

(2) The design-build entity, construction manager, or construction contractor has entered into a project labor agreement that will bind the design-build entity or construction contractor and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(c) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.

21568.7. (a) The district may not award a design-build-operate contract for any project pursuant to this article. A contract may, however, cover operations during a training or transition period.

(b) The district shall perform construction inspection services for all projects authorized and awarded pursuant to this article, and it shall use district employees to the fullest extent possible, and then consultants under contract with the district to perform these services.

21568.8. Any design-build entity or Construction Manager/General Contractor that is selected to construct a project pursuant to this article shall possess or obtain sufficient bonding to cover the contract amount for construction services and risk and liability insurance the district may require. Any payment or performance bond written for the purposes of this article shall be written using a bond form developed by the district.

21568.9. If the district elects to award a project pursuant to this article, retention proceeds withheld by the district from the design-build entity or Construction Manager/General Contractor shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

21568.10. Nothing in this article affects, expands, alters, or limits any rights or remedies otherwise available at law.

21568.11. (a) The provisions of this article pertaining to the progressive design-build and Construction Manager/General Contractor delivery methods shall remain in effect only until January 1, 2028, and as of that date are inoperative.

(b) The provisions of this article pertaining to design-build shall remain in effect in accordance with Section 22169.

(c) A contract awarded pursuant to this article before the applicable portions of the article are inoperative shall continue in full force and effect until completion, including any subsequently executed changes to the contract, or termination.

SEC. 3. 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 need to improve water infrastructure in the geographic area served by the Metropolitan Water District of Southern California.

SEC. 4. 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.