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AB-2763 Santa Clara Valley Transportation Authority: job order contracting. (2021-2022)

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Assembly Bill No. 2763

CHAPTER 803

An act to add and repeal Article 4.5 (commencing with Section 100157) of Chapter 5 of Part 12 of Division 10 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2763, Kalra. Santa Clara Valley Transportation Authority: job order contracting.

Existing law creates the Santa Clara Valley Transportation Authority with various powers and duties relative to transportation projects and services and the operation of public transit in the County of Santa Clara. Existing law authorizes the authority to make contracts, enter into stipulations, and use a Construction Manager/General Contractor project delivery method for public transit projects.

This bill would authorize the authority to enter into job order contracts, defined as indefinite-quantity contracts for repair, remodeling, or other repetitive work to be done according to unit prices, with the lowest responsible and responsive bidders. The bill would prohibit the authority from entering into a job order contract for, among other things, work that is protected by a collective bargaining agreement and a single job order contract from exceeding \$5,000,000 in its first term and, if extended or renewed, from exceeding \$10,000,000 over the maximum of 2 extended terms, as specified. If the authority acts pursuant to that authorization, the bill would require the authority to report on its use of job order contracting, as specified. The bill would repeal these provisions on January 1, 2028.

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

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

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) The maintenance of public transit and transportation facilities, including roads, bus systems and facilities, rail systems and facilities, maintenance facilities, and administrative offices and facilities, is a compelling government interest and a matter of regional and statewide concern.
- (2) The awarding of contracts by the Santa Clara Valley Transportation Authority for repair, remodeling, or other repetitive work under traditional design-bid-build procedures may not be feasible or economical for purposes of maintaining the authority's facilities in a state of good repair or returning them to a state of good repair in a timely manner.
- (3) It is in the public interest to consider the broadest possible range of procurement methods for repair, remodeling, or other repetitive work to enable the authority to maintain its facilities in, or return its facilities to, a state of good repair in a timely

manner, including through job order contracts.

(4) The authority should be authorized to use cost-effective options for the delivery of public works projects, in accordance with the national trend, which include authorizations in California, to allow public entities to use job order contracting as a project delivery method.

(5) The benefits of job order contracting include accelerated completion of projects, cost savings, and reduction of construction contracting complexity for the authority.

(6) Job order contracting should be used to reduce project costs and expedite project completion.

(7) The availability of job order contracting as a project delivery method will not preclude the use of traditional methods of project delivery if a traditional method results in higher cost savings.

(b) It is the intent of the Legislature that this act demonstrate an alternative and optional procedure for the bidding of public works projects that is applicable only to the authority.

SEC. 2. Article 4.5 (commencing with Section 100157) is added to Chapter 5 of Part 12 of Division 10 of the Public Utilities Code, to read:

Article 4.5. Job Order Contracting

100157. For purposes of this article, the following definitions apply:

(a) "Job order contract" means an indefinite-quantity contract for repair, remodeling, or other repetitive work to be done according to unit prices.

(b) "Typical work" means a work description applicable universally or applicable to a large number of individual projects, as distinguished from work specifically described with respect to an individual project.

(c) "Unit price" means the amount paid for a single unit of an item of work.

100157.5. (a) The VTA may enter into a job order contract.

(b) The VTA shall not enter into a job order contract for work that is protected by collective bargaining agreements.

(c) The VTA shall not enter into a job order contract for new construction.

(d) The VTA may enter into a job order contract only if the job order contract, and the task orders within the contract, is subject to the project labor agreement between the VTA and the Santa Clara and San Benito Counties Building and Construction Trades Council, unless otherwise exempted by that project labor agreement.

(e) The VTA shall only enter into a job order contract with the lowest responsible and responsive bidder, based on the bidder's plans and specifications for typical work.

(f) A single job order contract shall not exceed five million dollars (\$5,000,000) in the first term of the job order contract and, if extended or renewed, ten million dollars (\$10,000,000) over the maximum of two extended terms of the job order contract.

(g) (1) The VTA may execute a job order contract for an initial contract term of no more than 12 months, with the option of extending or renewing the job order contract for two additional 12-month periods. An extension or renewal shall be priced as provided in the invitation for bids. An extension or renewal shall be mutually agreed to by the VTA and the contractor pursuant to the job order contract.

(2) The job order contract shall specify that its term will not exceed the contract term or the date that the maximum value of the contract is achieved, whichever is earlier.

100157.7. (a) (1) If the VTA acts pursuant to the authorization in subdivision (a) of Section 100157.5, then the VTA, on or before January 1, 2027, shall submit to the appropriate policy and fiscal committees of the Legislature a report on the use of job order contracting under this article.

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

(A) A description of the VTA's system for evaluating job order contract bids for award of job order contracts, including, but not limited to, the criteria used by the VTA to determine a qualified and responsive job order contractor.

(B) A description of each job order contract awarded and the contractor awarded the contract.

(C) An assessment of the use of job order contracting under this article.

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

100157.9. This article shall remain in effect only until January 1, 2028, and as of that date is repealed.