



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-739 Construction manager at-risk construction contracts: City of Elk Grove: zoo project. (2023-2024)

SHARE THIS:  

Date Published: 09/26/2024 02:00 PM

Senate Bill No. 739

CHAPTER 593

An act to add Section 20175 to the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2024. Filed with Secretary of State September 25, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 739, Ashby. Construction manager at-risk construction contracts: City of Elk Grove: zoo project.

Existing law authorizes a county, until January 1, 2029, with approval of the board of supervisors, to utilize construction manager at-risk construction contracts for the erection, construction, alteration, repair, or improvement of infrastructure, excluding roads, and including, among other things, buildings, subject to certain requirements and limitations.

This bill would authorize the City of Elk Grove, with the approval of the city council, to utilize construction manager at-risk construction contracts for a zoo project, as defined, subject to certain requirements.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Elk Grove.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 20175 is added to the Public Contract Code, to read:

20175. (a) Notwithstanding any other law, the City of Elk Grove, with approval of the city council, may utilize construction manager at-risk construction contracts for the city's zoo project. A construction manager at-risk construction contract may be awarded using either the lowest responsible bidder or best value method to a construction manager at-risk entity that possesses or that obtains sufficient bonding to cover the contract amount for construction services and risk and liability insurance as may be required by the city. Any payment or performance bond written for the purposes of this section shall be written using a bond form developed by the city.

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

(2) This subdivision shall not apply if any of the following conditions are met:

(A) The city 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 entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the City of Elk Grove Community Workforce and Training Agreement executed in January 2023, or an extension or renewal of that agreement.

(C) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(c) Subcontractors that were not listed by a construction manager at-risk entity as partners, general partners, or association members in a partnership, limited partnership, or association in the entity's construction manager at-risk bid submission shall be awarded by the construction manager at-risk entity in accordance with the process set forth by the city. All subcontractors bidding on contracts pursuant to this section shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The construction manager at-risk entity shall do both 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 city.

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

(d) If the city elects to proceed under this section and uses a construction manager at-risk contract for a construction project, it shall make a copy of the contract available for public inspection on its internet website.

(e) (1) If the city elects to award a project pursuant to this section, retention proceeds withheld by the city from the construction manager at-risk entity shall not exceed 5 percent if a performance and payment bond issued by an admitted surety insurer is required in the solicitation of bids.

(2) In a contract between the construction manager at-risk entity and any subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the city and the construction manager at-risk entity. If the construction manager at-risk entity provides written notice to any subcontractor that is not a member of the construction manager at-risk entity, before or at the time the bid is requested, that a bond may be required, and the subcontractor subsequently is unable or refuses to furnish a bond to the construction manager at-risk entity, then the construction manager at-risk entity may withhold retention proceeds in excess of the percentage specified in the contract between the city and the construction manager at-risk entity from any payment made by the construction manager at-risk entity to the subcontractor.

(f) As used in this section:

(1) "Best value" means a value determined by objective criteria related to the experience of the entity and project personnel, project plan, financial strength of the entity, safety record of the entity, and price.

(2) "City" means the City of Elk Grove.

(3) "Construction manager at-risk contract" means one or a successive combination of competitively procured contracts entered into by the city with an individual, partnership, joint venture, corporation, or other recognized legal entity, that is appropriately licensed in this state, including holding a contractor's license issued by the Contractors State License Board, and that guarantees the cost of a project and furnishes construction management services, including, but not limited to, preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

(4) "Project labor agreement" means a prehire collective bargaining agreement covering employees in the building and construction industry that establishes terms and conditions of employment for the project or contract.

(5) "Zoo project" or "project" means the new zoo proposed to be relocated from the City of Sacramento and constructed over time, with buildings, including repair of structures, landscaping, habitat, site work, and flatwork, in the City of Elk Grove and its associated public infrastructure, including, but not limited to, roadway in the vicinity of the new zoo, excluding any roadway owned and maintained by the State of California through the Department of Transportation, and utility improvements in any way associated with the new zoo.

SEC. 2. 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 conditions in the City

of Elk Grove that make it necessary to grant the city the authority to utilize the contracting methods described in this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the use of the construction manager at-risk contract method as quickly as possible, and thereby, for the benefit of the public, minimize the duration of the process of relocating the Sacramento Zoo to the City of Elk Grove, it is necessary for this act to take effect immediately.