



IN BRIEF

SB 793 will save taxpayer dollars by allowing three special districts –the Peninsula Health Care District, the Santa Clara Valley Open Space Authority, and the Midpeninsula Regional Open Space District to utilize design build on upcoming construction projects. The bill also authorizes San Mateo County to take advantage of a best value pilot program (created in 2015, SB 762 (Wolk)) to facilitate and expedite their 5-year \$444 million Capital Improvement Plan. SB 793 also clarifies that those counties in the best value pilot program have the option to utilize job order contracting (JOC).

BACKGROUND

The Local Agency Public Construction Act requires local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder. This design-bid-build method is the traditional, and most widely-used, approach to public works construction. This approach splits construction projects into two distinct phases: design and construction. During the design phase, the local agency prepares detailed project plans and specifications using its own employees or by hiring outside architects and engineers. Once project designs are complete, local officials invite bids from the construction community and award the contract to the lowest responsible bidder.

State law also allows some state and local officials to use the design build method to procure both design and construction services from a single company before the development of complete plans and specifications. Under design-build, a public agency contracts with a single entity - which can be a single firm, a consortium, or a joint venture - to design and construct a project. Before inviting bids, the agency prepares documents that describe the basic concept of the project, as opposed to a complete set of drawings and specifications of what will be constructed. In the bidding phase, the agency typically evaluates bids on a best-value basis, incorporating technical factors, such as qualifications and design quality, in addition to price. Design build often leads to overall savings and earlier project completion.

Counties, cities, school districts and many other government entities are already authorized in statute to use design build but many special districts have yet to be granted authority.

Comprised of over 62,000 acres of acquired and protected open space, the Midpeninsula Regional Open Space District (Midpen) is one of the largest regional open space districts in California. In 2014, Midpen passed Measure AA – a \$300 million bond requiring 2/3 voter approval (750,000-resident district across San Mateo, Santa Clara, and Santa Cruz Counties). – aimed at implementing the Priority Actions identified in its 30-year Vision Plan. Upcoming projects that would likely utilize design build include: visitor centers, staff offices and maintenance facilities, bridges for pedestrians and vehicles, new parking lots, repairs on district holdings including water well improvements, and habitat restoration.

The Peninsula Health Care District in San Mateo County is planning a Peninsula Wellness Community. The community is planned for 9 acres owned by the district in the heart of San Mateo County and immediately adjacent to Sutter’s Mills-Peninsula Medical Center, which also sits on district-owned land.

Facilities will include: senior housing – independent, assisted, and dementia care; supportive housing for developmentally challenged adults; residential Hospice; screening, therapies and pre-school for developmentally challenged children; senior care support programs; professional offices for clinicians, support services, and research; community gardens and open space.

The Santa Clara Valley OSA was formed in 1993, serves over 1.4 million people in eastern and southern Santa Clara County, and has protected over 22,000 acres to date. They have planned projects for public access trails, ADA loop trails, expanded parking areas, and interpretive signage which would all benefit from the design build. Specifically these projects include:

- Coyote Ridge Open Space Preserve -Public access trails, parking and signage
 - Coyote Valley Open Space Preserve - ADA loop trail, interpretive stations and ecological restoration
 - Rancho Canada del Oro- Backcountry trail access and educational interpretation of historic Blair Barn
 - Sierra Vista Open Space Preserve - Expanded parking area (including ADA access) to accommodate more visitors
 - El Toro Public Access - public access trail and signage to El Toro Mountain
- They estimate a savings of \$1M in total for all of these projects that are estimated to cost a total of \$3-4M.

All California counties have been authorized to use Job Order Contracting (JOC) for many years pursuant to Public Contract Code 20128.5. When the best value pilot program was implemented in 2015 via SB 762 (Wolk), the concept was that best value could be used as an overlay to any of the existing procurement methods the counties already used.

Unfortunately, due to conflicting interpretations of the language used in the authorizing language of the pilot program, it is not clear that best value can be used with JOC. This stems largely from the fact that JOC is a contract-based procurement method, rather than a project-based procurement method. As such, the current pilot program, which authorizes best value on “projects” could be interpreted as not allowing best value on “contracts.” The amendments remove the ambiguity and make clear that best value can be used with the same JOC authority that counties have always had. In fact, most of the language in the amendments is taken directly from PCC sec. 20128.5

A Job Order Contract is a firm, fixed-price, indefinite quantity, indefinite delivery master construction contract used to accomplish many renovation, repair, alteration and larger maintenance projects in a single competitive bid that would otherwise require separate and costly individual procurements. It is an additional contracting/procurement tool that utilizes local, competitively-awarded contractors and subcontractors, a competitive bid process to include contract specifications, a locally developed and priced Construction Task Catalog, and contracting manual. JOC is used by public entities all over the

country, including hundreds of jurisdictions in California, to help expedite minor renovation projects and reduce costs.

THE SOLUTION

SB 793 authorizes three selected special districts to use design build for upcoming construction projects.

SUPPORT

Association of California Healthcare Districts
 California Special Districts Association
 Midpeninsula Regional Open Space District
 Peninsula Health Care District
 State Building and Construction Trades Council

FOR MORE INFORMATION

Meegen Murray – 916-651-4013
Meegen.Murray@sen.ca.gov