



Metro

EXECUTIVE MANAGEMENT AND AUDIT
COMMITTEE
JULY 17, 2008

SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

RECOMMENDATION

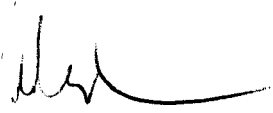
Adopt the following position:

SB 1350 (CEDILLO) – Would use a specified design-build procurement process for the construction of a high-occupancy vehicle lane in Los Angeles County. **SUPPORT**

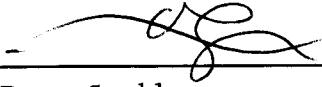
ATTACHMENTS

Attachments A-1 Legislative Analysis of SB 1350
A-2 SB 1350 Bill language

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BILL: SB 1350

AUTHOR: SENATOR GIL CEDILLO
(D-LOS ANGELES)

SUBJECT: 710 GAP CLOSURE PUBLIC PRIVATE PARTNERSHIP

STATUS: ASSEMBLY TRANSPORTATION

ACTION: SUPPORT

RECOMMENDATION

Adopt a “Support” position on SB 1350 (Cedillo) that would authorize the creation of a public private partnership, the imposition of tolls and the use of a specified design-build procurement process for the construction of the 710 Gap Closure project.

ISSUE

Senator Cedillo has introduced SB 1350 which would create a framework of authorities to complete the 710 Gap Closure project. The measure would vest LACMTA with many of the identified authorities to finish the project.

PROVISIONS

Existing law makes the Department of Transportation (Caltrans) responsible for improving and maintaining the state highway system. It also authorizes the Los Angeles County Metropolitan Transportation Authority (LACMTA), until January 1, 2010, in consultation with Caltrans, to use a specified design-build procurement process for the construction of a high-occupancy vehicle lane in Los Angeles County designated in the National Corridor Infrastructure Improvement Program as established by federal law. Existing law also authorizes Caltrans and regional transportation agencies, until January 1, 2012, to enter into comprehensive development lease agreements with public or private entities for a limited number of transportation projects that may charge users of those projects tolls and user fees.

Specifically, SB 1350 would:

- Require Caltrans to be responsible for the preparation of reports and documents with sufficient detail so that adequate information will be available to prepare proposals for providing services and financing to complete the design, construction, and operation of a tunnel closing the gap between Interstate 710 and Interstate 210 in Los Angeles County;
- Authorize the LACMTA, in consultation with Caltrans, and, upon specified conditions, to determine whether the tunnel project should be developed as a design-build project, as

specified, or under the condition of a project development agreement between the authority and a private entity that provides for the lease of the tunnel project to the private entity, as specified;

- Provide for the collection of tolls and related fees and would allow us to issue debt secured by the tolls and fees;
- Provide for the formation of a project construction advisory authority to provide oversight of the construction and operation of the project; and
- Authorize the formation of a public private partnership for the construction operation and maintenance of the 710 Gap Closure project.

IMPACT ANALYSIS

Under current law, financing a transportation project using public private partnerships is limited to four projects statewide. The use of tolls on highway is also restricted under state law. SB 1350 would create a framework and necessary authorities to implement a public private partnership for the completion of the 710 Gap Closure project.

The measure would create a set of authorities which could be exercised by Caltrans and us. It should be noted that the bill does not require these authorities to be exercised at any specific time. In fact, the decision to use design-build is tied to the issuance of a final record of decision from the United States Department of Transportation. In creating the authority to use tolls, private financing and the creation of a construction authority, the bill does not mandate that these authorities be exercised at any particular time. This allows Caltrans and us to continue with the required study processes without prejudicing the outcome of those studies. SB 1350 merely creates the legal authority to implement various project delivery tools when the current processes are completed.

We would play a central role in exercising the authorities in the bill. Specifically, we would be vested with the authority to use design build as the procurement strategy for completion of the project. The terms under which this design-build strategy would be used are based on the authority currently in operation for the completion of the I-405 High Occupancy Vehicle lane.

After the engagement of the design-build entity, we would then be mandated to create a joint powers authority to oversee construction of the project. The authority would be governed by a board composed of 13 members. One member each would be appointed from the cities of Alhambra, La Canada-Flintridge, Los Angeles, Monterey Park, Pasadena, San Marino, and South Pasadena, two members from the Los Angeles County Board of Supervisors in whose district the project is located, a representative of the LACMTA, a representative from the San Gabriel Valley Council of Governments and a representative from Caltrans. The authority would be charged with overseeing construction of the project.

In summary, SB 1350 creates a framework of authority to be exercised at the completion of the study process currently being pursued by Caltrans and us. Creating framework of authority now, such as the authority to use tolls and private financing, may in fact facilitate and improve the study process by bringing clarity and certainty to the availability of innovative delivery tools.

ATTACHMENT A-2

BILL NUMBER: SB 1350 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 17, 2008

INTRODUCED BY Senator ~~Ashburn~~ Cedillo

(Principal coauthor: Assembly Member
Eng)

FEBRUARY 20, 2008

~~An act to amend Section 22353 of the Vehicle Code, relating to speed limits.~~ An act to add Article 6.95 (commencing with Section 20209.50) to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1350, as amended, ~~Ashburn~~ Cedillo
. ~~Speed limits: Bear Valley Community Services District: equestrian safety.~~ Los Angeles County Metropolitan Transportation Authority: facilities: design-build project: public-private partnership.

Existing law makes the Department of Transportation responsible for improving and maintaining the state highway system. Existing law authorizes the Los Angeles County Metropolitan Transportation Authority, until January 1, 2010, in consultation with the Department of Transportation, to use a specified design-build procurement process for the construction of a high-occupancy vehicle lane in Los Angeles County designated in the National Corridor Infrastructure Improvement Program as established by federal law. Existing law also authorizes the Department of Transportation and regional transportation agencies, until January 1, 2012, to enter into comprehensive development lease agreements with public or private entities for a limited number of transportation projects that may charge users of those projects tolls and user fees.

This bill would require the Department of Transportation to be responsible for the preparation of reports and documents with sufficient detail so that adequate information will be available to prepare proposals for providing services and financing to complete the design, construction, and operation of a tunnel closing the gap between Interstate 710 and Interstate 210 in Los Angeles County. This bill would authorize the Los Angeles County Metropolitan Transportation Authority, in consultation with the Department of Transportation, upon specified conditions, to determine whether the tunnel project should be developed as a design-build project, as specified, or under the condition of a project development agreement between the authority and a private entity that provides for the lease of the tunnel project to the private entity, as specified. This bill would provide for the collection of tolls and related fees and would allow the Los Angeles County Metropolitan Transportation

Authority to issue debt secured by the tolls and fees. The bill also would provide for the formation of a project construction advisory authority to provide oversight of the construction and operation of the project.

~~Existing law prohibits a person from driving a vehicle at a speed greater than the speed limit. Existing law sets forth prima facie speed limits unless changed or otherwise authorized by law and permits local authorities to set prima facie speed limits higher or lower than the established prima facie speed limits on the basis of an engineering and traffic survey, as defined, if the different speed limit is necessary to facilitate the orderly movement of traffic and is reasonable and safe. Existing law requires an engineering and traffic survey to include consideration of prevailing speeds as determined by traffic engineering measurements, accident records, and highway, traffic, and roadside conditions not readily apparent to drivers and authorizes local authorities to consider other specified factors, including pedestrian and bicyclist safety.~~

~~Existing law authorizes the City of Norco to consider equestrian safety, in addition to those factors, when conducting an engineering and traffic survey.~~

~~This bill would authorize the Bear Valley Community Services District to consider equestrian safety in addition to the other factors.~~

~~The bill would make legislative findings and declarations as to the necessity of a special statute.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes . State-mandated local program: no.

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

SECTION 1. Article 6.95 (commencing with Section 20209.50) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code , to read:

Article 6.95. Los Angeles County Innovative Transportation Project

20209.50. The Legislature finds and declares:

(a) For over 40 years, several attempts have been made to complete the 4.5 mile gap between temporary terminus of Interstate 710 freeway at Valley Boulevard in Alhambra and the connector at Del Mar in Pasadena to Interstate 210.

(b) The several surface alignments through the Cities of Alhambra, South Pasadena, and Pasadena, and the El Sereno district of the City of Los Angeles within the corridor have been proposed to close the gap, but none have been acceptable to every community.

(c) The inability to complete the highway has diminished the quality of life to all citizens in the region by reducing air quality, increasing commute times, and contributing to the growing traffic congestion in the region.

(d) The circuitous and indirect travel patterns along city traversing neighborhoods and local business districts that result from the lack of a direct, unimpeded connection between Interstate 710 and Interstate 210 would be converted to direct trips resulting

in the reduction of vehicle miles traveled and an increase in the average speed of the trips. Both outcomes would contribute to a reduction of greenhouse gases and a reduction in criteria pollutants (including ozone, oxides of nitrogen, and carbon monoxide), respectively, if the gap between Interstate 710 and Interstate 210 was closed.

(e) The Department of Transportation, the Federal Highway Administration, the Southern California Association of Governments, and the Los Angeles County Metropolitan Transportation Authority have supported the completion of Route 710 to relieve regional and local traffic congestion and to enhance regional air quality.

(f) The Southern California Association of Governments, the regional transportation planning agency under state law, as well as the metropolitan planning organization designated by the federal government for southern California, has included this project in its Regional Transportation Plan since 1989 and in its Regional Transportation Improvement Plan, the region's capital investment program for transportation, since 1991.

(g) The Southern California Association of Governments proposed that a tunnel may be a feasible way of closing the gap between Interstate 710 and Interstate 210, as a tunnel would remove the need for a right-of-way, and the demolition of homes, historic structures, businesses, and other public and private buildings, while contributing to the improvement of air quality in the southern California region and enhancing regional mobility.

(h) The Los Angeles County Metropolitan Transportation Authority, in conjunction with the Department of Transportation, commissioned a study to determine whether a tunnel solution would be feasible and worthy of further consideration as an investment strategy for closing the gap between Interstate 710 and Interstate 210.

(i) The study commissioned by the Los Angeles County Metropolitan Transportation Authority concluded that the tunnel concept to close the gap between Interstate 710 and Interstate 210 is technically feasible, and that there are no identified insurmountable issues that would preclude further analysis of the tunnel concept.

(j) The Los Angeles County Metropolitan Transportation Authority included the gap closure project between Interstate 710 and Interstate 210 in its 2001 Long Range Transportation Plan's Strategic Plan, rather than in its funded baseline and constrained plan, due to a lack of local consensus and financial constraints.

(k) The Los Angeles County Metropolitan Transportation Authority is currently updating its 25-year Long Range Transportation Plan for adoption in June 2008, and the proposal for constructing a tunnel to close the gap between Interstate 710 and Interstate 210 is among the major projects being considered for inclusion in the plan.

20209.51. For purposes of this article:

(a) "Authority" means the Los Angeles County Metropolitan Transportation Authority.

(b) "Best value" means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the authority in consultation with the department.

(c) "Contracting agency" means the authority.

(d) "Department" means the Department of Transportation.

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

(f) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(g) "Facility" means the tunnel constructed by the project.

(h) "Project" means the construction of a tunnel closing the gap between Interstate 710 and Interstate 210 in Los Angeles County, provided a record of decision has been issued by the United States Department of Transportation.

20209.52. (a) (1) The department shall be responsible for the preparation of project study reports and other project justification and needs reports, the preparation of environmental documents including through and including the issuance of a record of decision by the Federal Highway Administration, and the preparation of the project's scoping documents including project alignment, design documents, and performance criteria with sufficient detail so that private consortia, whether responding to a design-build procurement or a project development agreement solicitation, will have adequate information to prepare proposals for providing the services and financing necessary to complete the design, construction, and operation of the project.

(2) Notwithstanding any other provision of law, for purposes of this project, the department is authorized to retain outside engineering firms, planning firms, traffic forecasting firms, economic and financial consulting firms, and individuals with expertise in the financing, design, construction, and operation of tunnels, for purposes of assisting with the preparation of the environmental documents and other predevelopment activities, and to assist the department's professional engineering staff in the preparation of necessary documents that are required to bring the project to the level of design that will allow private firms to bid on the project pursuant to Sections 20209.53 and 20209.54.

(3) Firms or individuals retained by the authority or the department, either individually or jointly, to assist with the preparation of plans, preliminary engineering, environmental documents, financial analyses, and other related activities shall not be eligible to participate in the competition with a design-build entity or with a private entity submitting a project development agreement proposal.

(4) Notwithstanding any other provision of law, specialized inspection and surveying services may be retained by the department due to the unique engineering requirements of the project.

(b) Upon the issuance of a record of decision by the United States Department of Transportation, the authority, in consultation with the department, shall determine that the project shall be developed as either a design-build project under the terms of Section 20209.53, or under the conditions of a project development agreement between a private entity and the authority under the terms of Section 20209.54.

(c) (1) The construction of the project may be financed with funds provided from the State Transportation Improvement Program, federal grants, reimbursements from property acquired by the department for a surface highway in the vicinity of the projects, local revenues, public debt, private debt and equity, and tolls and other user fees. Nothing shall preclude the use of public and private revenues in the development of the project.

(2) Variable tolls may be imposed to manage the flow of traffic,

maximize traffic throughput, and enhance revenue generation over a defined period of time. Public transit buses, certified by the authority as being owned by a public agency, shall be entitled to use the facility without charge.

(d) The department and the authority shall be reimbursed from toll revenues for the predevelopment work performed up to the issuance of the record of decision. The department and the authority shall keep detailed records of the time reported by employees for working on the project and materials needed to conduct this work. The timesheets and related data shall be subject to a third-party audit prior to entering into a reimbursement agreement.

(e) The authority shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply where the authority, the design-build entity, or the entity selected to develop and operate the project under the terms of a lease has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

(f) (1) The authority and the department shall enter into a memorandum of understanding implementing the terms and conditions of this article.

(2) The authority shall appoint a project manager to oversee the management of the project regardless of the project development strategy selected by the authority. The project manager may be an employee or a contractor. The project manager shall report to the authority's governing board and to the governing board of the construction advisory authority created in Section 20209.55.

(3) The design-build firm or the entity selected to develop the project under the terms of a lease shall appoint a project manager that shall represent either the firm or the entity before the authority's governing board, at the board meetings of the construction advisory authority, and at other similar venues.

20209.53. (a) The Legislature finds that the design-build procurement method for the development of the project will accomplish one or more of the following objectives: reduce project costs, expedite the project's completion, and provide design features not achievable through the design-bid-build method.

(b) After consultation with the department, the authority, as the contracting agency, may use the design-build procurement method for the construction of the project.

(c) (1) The authority may fix, alter, charge, and collect tolls, and related fees to finance the project when constructed as a design-build project. The revenues shall be deposited in a separate authority fund.

(2) The authority may issue debt for the construction of the design-build project secured by tolls or other user fees.

(d) (1) The authority, in consultation with the department, shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the proposed project; performance specifications covering the quality of materials, equipment, ventilation, and other operating and environmental capability systems; and workmanship, preliminary plans, or any other information deemed necessary to describe adequately the authority's and the department's needs. The performance specifications and any plans

shall be prepared by a design professional duly licensed or registered in California.

(2) The director of the department shall approve the documents setting forth the scope of the project prior to the issuance of a request for proposal.

(3) The authority and the department, individually or jointly, may retain architectural or engineering firms and other professional services firms to assist in the development of evaluation criteria or preparation of the request for proposal. Firms or individuals retained by the authority or the department, either individually or jointly, shall not be eligible to participate in the competition with a design-build entity.

(4) The request for proposal shall identify the basic scope and needs of the project, the expected cost range, and other information deemed necessary by the authority and the department to inform interested parties of the contracting opportunity.

(5) The request for proposal shall invite interested parties to submit competitive, sealed proposals in the manner prescribed by the authority.

(6) Each request for proposal shall include a section identifying and describing all of the following:

(A) All significant factors that the authority and the department expect to consider in evaluating proposals, including cost or price and all nonprice-related factors. The following minimum factors shall collectively represent at least 50 percent of the total weight or consideration given to all criteria factors: price, technical expertise in the design, construction and operation of tunnels in an urban community, life cycle costs over 40 years or more, skilled labor force availability, and an acceptable safety record.

(B) The methodology and rating or weighting scheme that will be used by the authority in evaluating competitive proposals and specifically whether proposals will be rated according to numeric or qualitative values, or a combination of both.

(C) The relative importance or weight assigned to each of the factors identified in the request for proposal. If a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price, when combined, are any of the following:

- (i) Significantly more important than cost or price.
- (ii) Approximately equal in importance to cost or price.
- (iii) Significantly less important than cost or price.

(7) The authority may hold a prebidders conference with prequalified design-build contractors to answer any questions regarding the project and the terms and conditions of the draft request for proposal.

(8) For the purposes of this section, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has not been deemed by the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(9) If the authority wishes to reserve the right to hold discussions or negotiations with offerors, it shall specify the same in the request for proposal and shall publish separately or

incorporate into the request for proposal applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in a fair and impartial manner.

(e) (1) In establishing the procedure to prequalify design-build entities, the authority shall use a standard questionnaire prepared by the authority. In preparing the questionnaire, the authority shall consult with the construction industry, including, but not limited to, representatives of the building and construction trades and surety industry. This questionnaire shall require information, including, but not limited to, all of the following:

(A) A listing of all the members of the design-build entity.

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

(C) Evidence that a member of the design-build entity has completed a major, multilane highway project that was required to meet recognized engineering standards for urban highways with a value of at least 25 million dollars (\$25,000,000) during the last 10 years.

(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 coverage sufficient to cover all design and architectural services provided in the contract.

(E) Evidence that the design-build entity has the licenses, registrations, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project.

(G) Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found by an awarding body not to be a responsible bidder.

(H) Any instance where the entity, its owner, officers, or managing employees defaulted on a construction contract.

(I) 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 Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(J) Information concerning the bankruptcy or receivership of any member of the entity, and information concerning all legal claims, disputes, or lawsuits arising from any construction project of any member of the entity, including information concerning any work completed by a surety.

(K) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members who will participate as subcontractors in the design-build contract.

(L) Information regarding the safety record of the design-build

entity. A bidder'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/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 bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(M) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five-year period immediately 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.

(N) In the case of a 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 liable for full performance under the design-build contract.

(2) The entity completing the questionnaire described in paragraph (1) shall complete the questionnaire to the best of its knowledge and belief, after reasonable investigation. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(f) (1) The authority shall establish, in consultation with the department, and adopt a procedure for the final selection of the design-build entity in which the selection shall be based upon a competitive bidding process resulting in lump-sum bids by the prequalified design-build entities. The award shall be to the bidder whose proposal provides in the judgment of the authority, after consultation with the department, the best value to the agency.

(2) Notwithstanding any other provision of law, upon issuance of a contract award, the authority shall publicly announce the award, identifying the contractor to which the award is made, along with a written decision supporting the contract award and stating the basis of the award. The notice of award shall also include the names of all bidders.

(3) The written decision supporting the authority's contract award, described in paragraph (2), and the contract file shall provide sufficient information to satisfy an external audit.

(4) When the authority selects a design-build entity for the project through the design-build selection process pursuant to this article, all of the following apply:

(A) The retention proceeds withheld by the authority from the design-build entity listed at the time of bid shall not exceed 5 percent.

(B) The authority shall not withhold retention from payments to the design-build entity for actual costs incurred and billed for design services, construction management services, or where applicable, for completed operations and maintenance services.

In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor, and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the authority and the design-build entity. If the design-build entity

provides written notice to any subcontractor that is not a member of the design-build entity, prior to or at the time that the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the authority and the design-build entity from any payment made by the design-build entity to the subcontractor.

(C) In accordance with applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments specified in subparagraph (B). Substitutions shall be made in accordance with Section 22300.

(D) Upon request, the authority shall provide a list of parties that have requested a bid package.

(E) Any design-build entity that is selected to design and build the project pursuant to this article shall possess or obtain sufficient bonding and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract consistent with this article. Nothing in this article prohibits a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(F) The minimum performance criteria and design standards established pursuant to this article by the authority for quality, durability, longevity, life cycle costs, and other criteria deemed appropriate by the authority shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the authority. The authority may retain the services of a design professional through the course of the project in order to ensure compliance with this article.

(g) (1) Upon the completion of the project, the authority shall enter into an operating agreement with the department for the operations, maintenance, and rehabilitation of the facility during the term of the agreement.

(2) The authority may contract with a private operator to collect tolls and maintain the facility consistent with the maintenance standards established by the department.

20209.54. (a) (1) Notwithstanding any other provision of law, the authority, in consultation with the department, may solicit proposals, accept unsolicited proposals, negotiate, and enter into comprehensive development lease agreements with private entities, or consortia thereof, for the development of the project.

(2) The authority may accept an unsolicited proposal, provided a request for competing proposals is issued.

(3) The authority, in consultation with the department, shall establish and adopt a procedure for final selection of a lease agreement with private entities for the development, operations, and maintenance of the project. The award shall be to the private entity whose proposal provides in the judgment of the authority, after consultation with the department, the best value to the authority and the department.

(4) Upon entering into the agreement, the authority and the department, acting jointly, shall issue a written statement stating the basis of the award.

(b) (1) The agreement entered into pursuant to this section shall

provide for the lease of the project to the private entity. The project shall be owned by the department and the agreement shall provide for complete reversion of the leased facility to the department, at the expiration of the lease at no charge to the department or the authority. At the time of reversion, the facility shall be delivered to the department in a condition that meets the performance and maintenance standards established by the department, and that is free of any encumbrance, lien, or other claims.

(2) At the time of reversion, the right to collect tolls and user fees shall be transferred to the authority for the use of the project and may be extended by the authority, provided revenues are used for the improvement, continued operations, or maintenance of the facility. This activity shall be done in consultation with the department.

(3) The plans and specifications for the project shall comply with the applicable standards for a project of this type.

(4) The agreement with a private entity shall authorize the entity to impose tolls for use of the project constructed by it, and shall require that over the term of the lease, the toll revenues be applied to payment of the private entity's capital outlay costs for the project; the costs associated with the operations, toll collection, and administration of the facility; reimbursement to the state for the costs of maintenance and police services; and a reasonable return on investment to the private entity.

(5) The department shall regularly inspect the facility and require the lessee to maintain and operate the facility according to adopted standards.

(6) The lessee shall be responsible for all costs due to development, maintenance, repair, rehabilitation, and reconstruction, and operating costs associated with the project during the term of the lease. The performance and maintenance standards established by the department shall be included by the authority by reference in the agreement with the private entity.

(7) A lease to a private entity pursuant to this section is deemed to be public property for a public purpose and exempt from leasehold, real property, and ad valorem taxation, except for the use, if any, of that property for ancillary commercial purposes.

(8) The project developed by a private entity and the facility leased pursuant to this section shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification, maintenance, enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

20209.55. (a) After the engagement of a design-build entity or the entering of a lease agreement with a private entity for the development of the project, the authority shall create, through a joint exercise of powers agreement, a project construction advisory authority to provide oversight of the construction and operation of the project.

(b) The members of the joint exercise of powers agency shall be as follows: a member from the city council of each of the Cities of Alhambra, La Caocada-Flintridge, Los Angeles, Monterey Park, Pasadena, San Marino, and South Pasadena, two members of the Los Angeles County Board of Supervisors in whose district the project is located, a representative of the authority, a representative from the governing board of the Southern California Association of Governments, a representative from the governing board of the San

Gabriel Valley Council of Governments, and a representative from the department.

(c) Each member jurisdiction shall appoint from its governing board a representative and one alternative to the construction authority's governing board.

(d) The project manager shall personally report monthly to the governing board of the construction authority on the status of the development project and the performance of the projects relative to the project scope, schedule, and budget established by the authority or the lessee.

(e) Any changes related to the authority's scope, schedule, or budget for the project shall be reviewed by the construction authority and the implications of the changes for the project shall be reported to the authority's governing board prior to their implementation.

(f) The construction authority shall review plans, schematics, and other depictions and explanations of the project to ensure conformity with the needs of the communities under which the project shall be operated.

~~SECTION 1. Section 22353 of the Vehicle Code is amended to read:~~

~~22353. When conducting an engineering and traffic survey, the City of Norco and the Bear Valley Community Services District, in addition to the factors set forth in Section 627, may also consider equestrian safety.~~

~~SEC. 2. The Legislature finds and declares that, because of unique circumstances applicable to the Bear Valley Community Services District and the equestrian trails there, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.~~

