

Date: February 22, 2008

Committee Meeting Date: February 21, 2008

Board Meeting Date: March 6, 2008

**BOARD MEMORANDUM**

**ACTION ITEM**

**TO:** Santa Clara Valley Transportation Authority  
Board of Directors

**THROUGH:** Michael T. Burns  
General Manager

**FROM:** Kurt Evans  
Government Affairs Manager

**SUBJECT:** Support Position for AB 387 (Duvall)

---

**Policy-Related Action: Yes**

**Government Code Section 84308 Applies: No**

**RECOMMENDATION:**

Adopt a support position for AB 387 (Duvall), which expands existing design-build authority for public transit agencies by allowing them to use this method of procurement for technology or surveillance projects designed to enhance transit safety, disaster preparedness or homeland security efforts.

**BACKGROUND:**

In 2000, AB 958 (Scott) was enacted into law to authorize public transit agencies to enter into design-build contracts for transit capital improvement projects. The measure established extensive procedural and performance requirements governing the use of design-build contracting for this purpose. However, under current law, design-build contracting cannot be used for capital maintenance or capacity-enhancing rail transit projects costing less than \$25 million or for a non-rail transit project costing less than \$2.5 million.

AB 387, which is being sponsored by the Orange County Transportation Authority (OCTA), eliminates the \$2.5 million cost threshold for transit design-build contracts if the contract is for the acquisition and installation of technology or surveillance equipment designed to enhance transit safety, security or disaster preparedness. It also allows public transit agencies to award these types of contracts based on best value.

**DISCUSSION:**

The current \$2.5 million threshold has served as a barrier for public transit agencies in terms of their being able to use design-build contracting for technology and surveillance procurements related to transit safety, security or disaster preparedness. Many of these types of projects that would be appropriate for design-build contracting cost less than this amount. Moreover,

procuring technology and surveillance equipment often requires installation work that is traditionally considered public works improvements, thereby requiring two contracts—one for the purchase of the technology, equipment and applications, and another for the installation. This, in turn, results in an awkward situation in which one company is installing another company's product.

The intent of AB 387 is to remedy these problems. By eliminating the \$2.5 million minimum cost threshold, the legislation would allow public transit agencies to take advantage of design-build contracting, when they determine that it is in their best interests to do so, for safety/security/disaster preparedness technology and surveillance projects. In addition, by providing public transit agencies with the flexibility to award these design-build contracts based on best value, public transit agencies would be able to more effectively plan for and implement new technologies that would enhance the safety and security of their systems, and better prepare them to respond to a disaster.

VTA historically has supported legislative proposals and policies that enhance the ability of local project sponsors to more effectively manage and to expedite the delivery of their transportation capital improvement projects. In fact, VTA's 2008 State Legislative Program, which was adopted by the Board of Directors in January, includes an advocacy principle supporting legislation that would enhance the flexibility of project sponsors to utilize design-build contracting and other innovative procurement methods for delivering state highway, public transit and other types of transportation projects. AB 387 is consistent with this advocacy principle and, therefore, we recommend that the Board of Directors support this measure.

**ALTERNATIVES:**

The Board of Directors could decide to adopt a position for AB 387 that is different from the one being recommended, or could opt to take no position on this bill at this time.

**FISCAL IMPACT:**

There is no immediate fiscal impact associated with this recommendation.

**STANDING COMMITTEE DISCUSSION/RECOMMENDATION:**

The Administration and Finance Committee considered this item on February 21, 2008, as a Committee of the Whole, with Directors Don Gage and Chuck Reed attending. Both Directors Gage and Reed expressed support for the staff recommendation. In response to a question from Director Reed, VTA staff explained that the cost thresholds were included in the original legislation enacted in 2000 in order to counter concerns expressed by groups generally opposed to design-build contracting. At that time, these groups argued that once given the authority, transit operators would use design-build contracting for every single capital project.

Prepared by: Kurt Evans, Government Affairs Manager