
From: Bradford, Jaymie
Sent: Tuesday, September 17, 2013 7:46 PM
To: Linthicum, Jim; Kawada, Kim
Subject: Fwd: AB 401 - AGC Request for Signing Message
Attachments: AB 401 Signing Message Request.doc; Proposed Signing Message.doc

FYI

Sent from my iPad

Begin forwarded message:

From: Brad Barnum <bbarnum@agcsd.org>
Date: September 17, 2013, 11:47:43 AM PDT
To: "Gallegos, Gary" <Gary.Gallegos@sandag.org>, "Bradford, Jaymie" <Jaymie.Bradford@sandag.org>
Cc: Dave Ackerman <dackerman@theapexgroup.net>, Jim Ryan <jryan@agcsd.org>
Subject: AB 401 - AGC Request for Signing Message

Gary, Jayme - attached is AGC's request for a signing message for AB 401, if it is signed by the Governor. You will see it addresses the issue I brought up on Friday.

I'm copying Dave Ackerman in case you have any questions.

Thanks!

Brad

From: Dave Ackerman [<mailto:dackerman@theapexgroup.net>]
Sent: Tuesday, September 17, 2013 10:43 AM
To: Brad Barnum
Subject: FW: AB 401 - Request for signing message

Brad:

Here is our signing message request on AB 401. We will see if this gets proper attention.

It was a long process on this bill.

Dave

From: Dave Ackerman [<mailto:dackerman@theapexgroup.net>]
Sent: Tuesday, September 17, 2013 10:13 AM
To: 'Brian.Kelly@CalSTA.ca.gov'; 'Brian.Annis@CalSTA.ca.gov'; 'Dougherty, Malcolm@DOT'; 'Brian Putler'; 'Gareth Elliott'
Subject: AB 401 - Request for signing message

Brian & Brian:

RE: AB 401 (Daly) – Request for signing message

As you are probably aware, during the legislative process, AGC expressed serious concerns over the impact the language in AB 401 would have on the bidding process and the difficulty contractors will have “costing” the risk transfer when Caltrans employees are performing inspection services on the jobsite.

As you know AGC strongly supports design-build and supports the I-405 improvement project. Since AB 401 formalizes the design-build process for 10 more years, AGC feels it is most important that this process start off correctly since this will be the operative model for the next decade.

We are asking that the Governor direct the Director of Transportation to establish working group comprised of Caltrans, local Regional Transportation Agencies, and contractors to implement AB 401 and create guidelines that can serve as a model template for the I-405 project with OCTA and projects to follow.

In order to be able to submit a responsible bid, contractors need to clearly understand the provisions that will be included in both the cooperative agreements required by the legislation and the commercial contract that will be entered into between the sponsoring local agency and the design-build team.

A message from the Governor to that effect will accomplish this goal. I have taken the liberty of drafting a signing message for your use.

Thank you.

Dave

David G. Ackerman

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September 16, 2013

The Honorable Edmund G. Brown Jr.
Governor of California
State Capitol
Sacramento, CA 95814

RE: AB 401 (Daly) – Design-Build – Request for Signing Message

Dear Governor Brown,

The Associated General Contractors of California (AGC) is the largest statewide construction trade association representing over 1,000 contractors and construction related firms throughout California. We are writing this letter today to respectfully request that in the event that AB 401 is signed into law, you consider attaching a signing message to the measure.

AGC requests you include a signing message to direct the Director of the Department of Transportation to assemble a working group with the local transportation agencies and the construction industry to determine and define guidelines necessary to implement AB 401. The guidelines should be specific to the particular project and cover issues and terms to be considered in the cooperative agreement between Caltrans and the local agency and in the commercial contract between the local agency and the Design-Build team.

AGC opposed AB 401 during the legislative process due to our concern surrounding the bidding uncertainties the bill creates for the design-build contractor. AGC contractors have performed many design-build projects, but none have been performed under the statutory requirements required by AB 401. Special and clearly defined working relationships will be required between Caltrans, the local transportation agency and the design-build team selected to perform the actual construction.

The requirement in AB 401 that Caltrans perform construction inspection services including both quality control and quality assurance present a significant challenge to the contractor as to how to assess risk transfer and determine a cost factor in the design-build bid.

The advantage of design-build is to transfer risk from the public agency to the design builder. The main aspect of design-build that promotes its effectiveness is the responsibility the design-builder normally holds for quality control and the greater use of self-inspection the delivery method affords.

In order for the design-build contractor to be able to properly “cost” a bid a under AB 401, the design-build contractor must be informed of and understand the number of factors that define the inspection program in order to minimize the net effect of increasing the local agencies pricing risk.

The first project to utilize the authorization under AB 401 will be the Orange County Transportation Authority on I-405 in Orange County. AGC strongly supports this project and believes design-build is the proper method to deliver the project.

Since AB 401 establishes a new process for design-build, in order for the project to be successful, a signing message will clarify that Caltrans will play a central role in establishing the working relationship between Caltrans, the local agency, and the design-build contractor.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas T. Holsman". The signature is fluid and cursive, written in a professional style.

Thomas T. Holsman
CEO, AGC of California

cc: Honorable Tom Daly, 69th Assembly District
Gareth Elliot, Legislative Secretary to the Governor
Brian Putler, Deputy Legislative Secretary
Brian Kelly, Secretary, California State Transportation Agency
Malcolm Dougherty, Director of Transportation.

Proposed Signing Message – AB 401

In recognition of the complexities of large transportation construction projects, I am directing the Director of Transportation to convene a working group comprised of Caltrans, Local Transportation Agencies and the construction industry to determine and define guidelines for implementation of AB 401. The guidelines should be specific to the particular project and cover issues and terms to be considered in the cooperative agreement between Caltrans and the local agency and in the commercial contract between the local agency and the Design-Build team.