

Legal Authority For Desalination

–Design-Bid-Build:

- Consistent with procurement rules of most government agencies – e.g. authority for municipal water districts under the Municipal Water District Law of 1911 are set forth in Public Contract Code §§ 20640 – 20645.

–Design-Build

- Public Contract Code § 22160 - Covers special district that operates wastewater facilities, solid waste management facilities, water recycling facilities for public works projects in excess of \$1,000,000.
- Public Contract Code § 20194 - Pilot project for cities, counties, cities and counties, and special districts to utilize design-build for regional or local water or wastewater treatment facilities, regional or local solid waste facilities, and regional and local water recycling facilities.

Legal Authority For Desalination (cont)

–Design-Build-Operate

- Public Contract Code § 22160?
- Government Code § 5956 et seq? Authorizes a governmental agency (city, county, city and county, incl. chartered city or county, school district, community college district, public district, county board of education, joint powers authority, transportation commission or authority, or any other public or municipal corporation) to utilize private sector investment capital to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, fee-producing infrastructure facilities.

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- Government Code § 5956 et seq

–CMAR / Progressive-Design Build:

- Legal authority dependent on intended scope of CMAR.

Funding Opportunities / Issues

- State Revolving Funds
- Government Code § 53398.50 (Enhanced Infrastructure Financing District)
- WIFIA
- Ability to transfer demand risk / user fees

Legal Challenges for Delivery of Desalination / Water Projects

- Concern re ownership and operation of water assets by private sector / privatization
- Environmental concerns / permitting challenges
- Bundling of projects
- Resourcing / capability / credit quality of relevant agencies

Questions?

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