

EXPOSITION METRO LINE CONSTRUCTION AUTHORITY

5.b

DATE: DECEMBER 1, 2005

TO: BOARD OF DIRECTORS

FROM: RICHARD D. THORPE
INTERIM CHIEF EXECUTIVE OFFICER

ACTION: APPROVE PROPOSED AMENDMENTS TO THE ADMINISTRATIVE CODE

RECOMMENDATION

Approve the revisions to the Administrative Code as shown in the attached redlined copy of the Administrative Code. (To assist in your review, this item includes a list of the more significant proposed amendments with an explanation of the nature and purpose of the changes).

SUMMARY

The Authority's Administrative Code (Code) was originally developed based on the Code adopted by the Los Angeles to Pasadena Metro Blue Line Construction Authority and modified to reflect the Authority's proposed practices as they were envisioned at that time. At the time the Code was adopted, the Authority had not yet selected its General Counsel and contemplated that the General Counsel might recommend modifications. In addition, the Los Angeles to Pasadena Metro Blue Line Construction Authority Administrative Code did not address requirements associated with federal funding. The General Counsel has recommended a number of revisions as discussed herein, including changes to address federal funding requirements.

DISCUSSION

DESCRIPTION OF PROPOSED REVISIONS

TITLE I, CHAPTER 1

- SECTION 2: Under "Authority," effective date of legislation changed from April 28, 2004 to January 1, 2004.
- SECTION 2: Deleted definition of "Commission" since the Code does not reference it.

- SECTION 9: Added this section “DISSOLUTION” to allow for the Board to continue to exist to dispose of all claims, payment of debt service, etc. upon dissolution of the Authority.

TITLE I, CHAPTER 3 – AUTHORITY OFFICERS

- SECTION 1, A: Revised to make it clear that the Board appoints the Chief Executive Officer and the General Counsel and may designate other Officers to be appointed by the Board. Removed requirement for the Board to adopt a resolution in order to designate other Officers to be appointed by the Board.
- SECTION 1, C: Revised to make clear that the Chief Executive Officer has the authority to appoint Officers other than those identified as Board Appointed Officers.
- SECTION 2, B: Revised to make clear that the Chief Executive Pro Tempore shall have all of the authority of the Chief Executive Officer.
- SECTION 2, I: Changed from “all meetings” to more specific language of “regular, adjourned regular, and special meetings.”
- SECTION 2, L: After the first sentence which states that the Chief Executive Officer shall serve as the Chief Financial Officer, changed all references to “Chief Executive Officer” to “Chief Financial Officer.”
- SECTION 4, C: Revised language to make it clear that the General Counsel approves “as to form” standard contracts but does not have to sign off on each individual contract.

TITLE I, CHAPTER 4 – PERSONNEL

- SECTION 1: Added language to make it clear that the Chief Executive Officer has the power to approve and sign employment contracts subject to the contract controls and limits for procurement in Title III, Chapter 2, Section 1.
- SECTION 2: Added language to make clear that the Chief Executive Officer will be the Personnel Officer unless the Chief Executive Officer appoints someone else to that position.

TITLE II, CHAPTER 1 – GENERAL PROVISIONS

- SECTION 4, B: Revised language regarding ex parte communications.

TITLE III, CHAPTER 1 – PROCUREMENT POLICY AND STANDARDS

- SECTION 1: Added language to address requirements applicable to FTA-funded contracts.

- SECTION 2: Revised to clarify intent.
- SECTION 3, A: Revised to clarify intent.
- SECTION 3, B.7: Added detail for record maintenance by adding the following language to assure compliance with FTA requirements: “At a minimum, these records shall include: a) the rationale for the method of procurement; b) the rationale for selection of contract type; c) reasons for the contractor selection or rejection; and d) the basis for the contract price.”
- SECTION 3, B.11: Added a provision for a petty cash fund revolving account in the amount of \$2,000.00.
- SECTION 3, B.12: Added a provision to allow for auditing expenditures of Authority funds in excess of \$25,000.00.

TITLE III, CHAPTER 2 – PROCUREMENT GENERALLY

- SECTION 4: Revised to clarify intent.
- SECTION 8: Revised to clarify intent.
- SECTION 9: Added FTA requirements.

TITLE III, CHAPTER 5 – COMPETITIVELY NEGOTIATED CONTRACTS

- SECTION 1, (c): Deleted reference to fiber optic facilities since the Authority does not plan to have fiber optic contracts.
- SECTION 3, E.: Added a provision regarding the retention of proposals and evaluations for a period of one year from the date a contract is awarded.
- SECTION 6, C: Deleted reference to Joint Development Agreements.

TITLE III, CHAPTER 7 – NON-COMPETITIVE AND EMERGENCY PROCUREMENTS

- SECTION 1, A. and B: Rewrote provision to clarify the intent.

The following provisions were added to conform to FTA permitted practices:

“When the Authority has advertised the contract as required by this Code and has undertaken reasonable efforts to solicit potential contractors but has determined competition is inadequate;”

“The Authority wishes to renew or extend the term of the contract and compensation provided pursuant to an existing contract under substantially the same terms and conditions, or the amendment of an existing contract under substantially the same terms and conditions of the contract (other than term and compensation), provided that such renewal, extension or amendment is authorized or permitted by the contract;”

“The item to be purchased is a capital maintenance item that is available only from the original manufacturer or supplier;”

- SECTION 2: Revised to clarify the intent.

TITLE III, CHAPTER 8 – PAYMENT OF LIVING WAGE

- SECTION 2: Added language to make clear that the living wage policy does not apply to professional services, construction contracts, or design-build contracts.

FINANCIAL IMPACT

None

ATTACHMENT(S)

- A. [Administrative Code Revised](#)