

Monterey Peninsula Community College District

Governing Board Agenda

December 13, 2011

New Business Agenda Item No. I

Superintendent/President
College Area

Proposal:

To appoint a Public Works Hearing Board of Monterey Peninsula Community College District.

Background:

West Bay Builders, general contractor for the theater renovation project, has requested to substitute Division 15 (mechanical subcontractor) with another subcontractor. This substitution is permitted under Public Contract Code 4100 et. seq. with permission of the owner. The general contractor has expressed concern about Division 15's economic viability. Division 15 has objected to the substitution and has requested a hearing with the owner as permitted under Public Contract Code 4107.

Monterey Peninsula College's Administration is recommending the establishment of a Public Works Hearing Board to consist of Stephen Ma, Michael Carson, and Joe Demko to hear the case. The Public Works Hearing Board will be delegating the authority to conduct hearings and issue rulings on behalf of the District under Public Contract Code 4107.

Budgetary Implications:

None.

RESOLUTION: BE IT RESOLVED that the Governing Board adopt the following resolution to appoint a Public Works Hearing Board of Monterey Peninsula Community College District.

RESOLUTION:

APPOINTMENT OF PUBLIC WORKS HEARING BOARD

WHEREAS, from time to time, Monterey Peninsula Community College District ("District") lets contracts for the construction, alteration, or repair of District facilities;

WHEREAS, pursuant to Public Contract Code §§ 4100 et seq., prime contractors to the District are required to "list" subcontractors at the time of submitting bid proposals to the District;

WHEREAS, from time to time the District receives a request from a prime contractor awarded a construction contract by the District to substitute a "listed" subcontractor with another subcontractor;

WHEREAS, prime contractors to the District are not permitted to substitute another subcontractor in place of a "listed" subcontractor without: a) establishing that a basis established under the Public Contract Code has arisen to justify the substitution of a listed subcontractor; and b) consent of the District;

WHEREAS, Public Contract Code § 4107 provides that, if a "listed" subcontractor objects to a prime contractor's request for the District's consent to substitute another subcontractor for a "listed" subcontractor, the District must conduct a hearing prior to the District's determination to grant or deny a request to substitute another subcontractor for a "listed" subcontractor.

NOW, THEREFORE, the following resolutions are adopted by the Board of Trustees of the Monterey Peninsula Community College District:

RESOLVED, that a Public Works Hearing Board of the District is established for the period December 14, 2011 to June 30, 2012.

FURTHER RESOLVED, the following individuals are hereby appointed members of the District's Public Works Hearing Board: Stephen Ma, Michael Carson, and Joseph Demko.

FURTHER RESOLVED, that the Public Works Hearing Board, acting as a whole, be delegated authority to conduct hearings and issue rulings on behalf of the District under Public Contract Code §4107.

PASSED AND ADOPTED by the Board of Trustees of the Monterey Peninsula Community College District on this thirteenth day of December, 2011, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Recommended By: Mr. Stephen Ma, Vice President for Administrative Services

Prepared By: _____
Carla Robinson, Executive Assistant to Superintendent/President and Governing Board

Agenda Approval: _____
Dr. Douglas Garrison, Superintendent/President