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TO: BOARD OF DIRECTORS

THROUGH: ARTHUR T. LEAHY *ATL*
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**SUBJECT: IMPACT OF AB2440 ON FUTURE DESIGN/BUILD BEST VALUE
PROCUREMENTS**

ISSUE

Staff has assessed the impact of the recently approved California State law AB 2440 on future Design/Build Best Value RFP procurements, including the Westside Subway Extension Project.

BACKGROUND

In September 2012, the Board approved the use of a design/build delivery method for the Westside Subway Extension Project by applying either Public Utilities Code Section 130242(a) or Public Utilities Code 20209.5 et seq. The Board's finding in September determined that through the use of California Public Utilities Code 20209.5 et seq. Metro would be allowed to use a Design/Build Request for Proposal (RFP) solicitation, instead of a low bid process.

The new statute AB2440, which takes effect January 1, 2013, now gives Metro the ability to use a Design/Build RFP by applying only Public Utilities Code Section 130242(a) as amended by AB2440. Metro is no longer required to use Public Utilities Code 20209.5 et seq. if it wishes to use a Design/Build RFP.

The advantage of AB2440 is that Metro can now rely on its own California statute Public Utilities Code Section 130242(a) to perform Design/Build, sealed bid solicitations or Design/Build Best Value solicitations without applying any other authorizing statutes.

For the Westside Subway Extension Project, Metro will apply Public Utilities Code Section 130242(a) as amended by AB2440. The application of AB2440 on the Westside Subway Extension Project will not have an impact on the anticipated December release of the Request for Qualification (RFQ) for that project. Furthermore, staff will seek ways of using this flexibility to identify means and methods to simplify the two-step process that is inherent in Design/Build RFPs. The ultimate goal will be to maximize competition on these critical construction projects, while simultaneously establishing qualification requirements that assure the agency that the awarded design/builder has the ability to be successful.

NEXT STEPS

1. Staff has begun and will continue to revise and streamline procedures and processes to take advantage of the new statute.
2. Staff will utilize the authorities identified in AB 2440 and incorporate the lessons learned from previous projects such as Crenshaw/LAX Transit Corridor, the Regional Connector Transit Corridor and other capital projects to develop streamlining techniques and processes, qualification requirements to maximize competition and provide solicitation methodology that will contribute to and result in schedule and cost savings in a successfully delivered project.