



MEMORANDUM

To: Mayor and Council Members

From: Mark Tester, President 
Austin Convention Enterprises, Inc. Board of Directors

Date: August 1, 2019

Subject: Response to Resolution No. 20190523-029 regarding Austin Convention Enterprises, Inc. (ACE) Board of Directors

As part of the Palm District Master Plan Resolution (No. 20190523-029), Council directed the City Manager “provide options for expansion or modification of the Board of Directors of Austin Convention Enterprises, Inc. that would create more formalized representation of the interest of employees (both public and private) at the convention center and at the publicly owned convention center hotel.”

Austin Convention Enterprises, Inc. (ACE) was formed by the City of Austin in 2000 as a public facilities corporation under Texas state law for the purpose of purchasing land and developing the Hilton Austin Hotel and accompanying garage (the Project), and to own, operate, finance, and potentially sell the same. Due to its public purpose, and non-profit status, ACE is exempt from sales taxes, and has the authority to issue tax exempt debt related to the Project. Being a public facilities corporation, ACE has no equity or stockholders, but is considered a component unit of the City of Austin for accounting purposes. City Council appoints the Board of Directors. Debt issued by ACE does not constitute a debt or pledge of the faith and credit of the City.

The recommended option for modification to the ACE Board of Directors (Board) is that Elaine Hart, Deputy City Manager and ACE Board Member, assume the responsibility to lead in the area of Employee Relations and Engagement for the Board of Directors. The background and consideration for this recommendation is detailed in the attachment.

Please let me know if you have any questions or concerns.

cc: Spencer Cronk, City Manager
City Manager’s Executive Team
Lee Crawford, City Attorney

Austin Convention Enterprises

SUMMARY

Recommendation for Expanding/Modifying the ACE Board

In assessing options to present to City Council, consultation was made with City management, the ACE Asset Manager, the ACE Advisor to the Board, and the ACE General Counsel. In considering “a more formalized representation of the interest of employees”, the following items were deliberated:

- ACE debt Bond Indenture documents
- ACE Articles of Incorporation and Bylaws
- Conflicts of interest which can exist as a Hotel employee
- Confidential nature of operating information shared by Hilton with the Board

The consultation I have received is that having a Hilton employee serving as a voting Board Member could present a conflict of interest and would require the Hilton employee to recuse him/herself on a significant number of Board matters because many of the Board’s discussions and actions are about confidential and/or non-public operational issues involving the Hilton. In particular, Board Members receive confidential, non-public information about current and prospective executive management personnel changes at the Hilton and receive non-public information about the Hilton’s prospective operating budget (potentially including employee bonus information) and staffing plan (including potential changes to employee headcount). In almost all such cases, the Board receives this information either before Hilton management has actually made a final decision, or before Hilton wishes to release the information to its workforce. As a matter of corporate governance, such an arrangement would also put the Hilton employee in the position of having to decide when (s)he should recuse him/herself on an item of Board business and could create a difficult situation if other Board members believed the Hilton employee should be recused on a particular item of business and the Hilton employee declined to recuse.

For all of these reasons, I believe the option of appointing a Hilton employee to the ACE Board is not operationally feasible, and I would strongly recommend against that option.

Another option considered is having a non-Hilton employee versed in human resources, who could focus specifically on how the Board’s management of the Hilton operating agreement would affect the Hilton employees. Although there are many human resources professionals who are not Hilton employees, it is recommended that a City employee versed in human resources but also knowledgeable about City business processes and familiar with the structure and responsibilities of ACE and the bond indenture be appointed for such a role.

It is my recommendation that Elaine Hart, Deputy City Manager and ACE Board Member, assume the responsibility to lead in the area of Employee Relations and Engagement for the Board of Directors. This will be in addition to Ms. Hart’s current responsibilities as a Board Member. Ms. Hart is an ideal candidate for this assignment. In her current full-time position as Deputy City Manager, Ms. Hart oversees the

Government that Works strategic outcome, which includes the City's Human Resources Department. Ms. Hart has a strong understanding of high performing, healthy work cultures that provide opportunities for all. Ms. Hart will meet with Hilton Austin Human Resources staff on a regular basis with a predetermined agenda to review vital statistics and programs that effect the workforce. Ms. Hart will report back findings to the Board during regularly scheduled Board meetings.

Austin Convention Enterprises - Board Meetings

ACE Board Meeting Topics. Historically, the ACE Board meets on a quarterly basis to review and act on the property and affairs of ACE. Topics have ranged as follows over the past two years:

- Annual insurance program review and renewal approval
- Annual audit review/approval
- Annual rating agency update review
- Annual ACE administrative budget review and approval
- Annual review and approval of the Hilton operating and capital budgets
- Annual review of independent contractor performance and contract status
- Quarterly Operations Monitor reviews of Hotel performance
- Quarterly capital project reviews
- Quarterly financial statement review
- Quarterly Investment Policy compliance and strategies
- Quarterly debt indenture compliance review
- Quarterly review of issues and activities of Austin Convention Condominium Association (ACCA)
- Quarterly review of issues with the Chamber of Commerce and the 555 Condos
- Quarterly review of general issues such as the Capitol Metro station activities

ACE Board Committees. Periodically the ACE Board creates committees of Board members to review topics of interest to the Board. Examples of such committees formed in the past include:

- Annual insurance program renewal
- Capital reserves sufficiency
- Major capital improvement programs
- Annual Hilton operating and capital budgets
- Annual ACE administrative budget
- Refinancing opportunities
- Hilton management agreement negotiation
- Review of Rating Agency presentations