

FILE NO. 121213

Petitions and Communications received from December 10, 2012, through December 31, 2012, for reference by the President to Committee considering related matters, or to be ordered filed by the Clerk on January 8, 2013.

**Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information will not be redacted.**

From San Francisco Coalition on Homelessness regarding their annual report and 2012 accomplishments. (1)

From Controller, regarding audit report on SFPUC's Job Order Contract Program. (2)

From Recreation and Parks, submitting 1<sup>st</sup> Quarter report for FY2012-2013 in response to Lead Poisoning Prevention. Copy: Each Supervisor. (3)

From Clerk of the Board, reporting the following individuals have submitted a Form 700 Statement: (4)

Sean Elsbernd - Supervisor - Leaving  
William Johnston - Legislative Aide - Assuming  
Ahmad El-Najjar - Legislative Aide - Assuming

From Controller, regarding the Opportunities to Claim and Expand Early Periodic Screening, Diagnosis, and Treatment Services report. (5)

From Treasurer & Tax Collector, submitting CCSF Monthly Investment Report as of November 30, 2012. (6)

From Institute for Justice, regarding the proposal to amend City ordinances regarding mobile food vendor locations. File No. 120193. Copy: Each Supervisor. (7)

From Tijuana Express, LLC, submitting notice of application with Public Utilities Commission to provide passenger stage service to regions throughout California. Copy: Each Supervisor. (8)

From Planning, submitting Notice of Preparation of an Environmental Impact Report for the 75 Howard Street Project. Copy: Each Supervisor, Committee Clerk. (9)

From Planning, regarding Transmittal of Planning Department Case No. 2012.0543T: Code Corrections Ordinance. Copy: Committee Clerk. (10)

From Planning, regarding California Environmental Quality Act Procedures. File No. 121019. Copy: Each Supervisor. (11)

From Jul Lynn Parsons, regarding her resignation from the Mayor's Disability Council. Copy: Each Supervisor, Committee Clerk. (12)

From Controller, issuing follow-up memo concerning audit of SFPUC's Tesla Water Treatment Facility and East/West Transmission Main. (13)

From Susan E. Vaughan, regarding Transportation Impact Development Fees. (14)

From Citizen's General Obligation Bond Oversight Committee, presenting their 2011 Annual Report. Copy: Each Supervisor. (15)

From PG&E, regarding Notice of Application Filing of Pacific Gas and Electric Company's 2014 General Rate Case A. 12-11-009. Copy: Each Supervisor. (16)

From Delta Stewardship Council, submitting notice of Recirculated Draft Program Environmental Impact Report for the Delta Plan. Copy: Each Supervisor. (17)

From SF Water, regarding Community Choice Aggregation Program Release of Reserve for \$1,443,500. (18)

From Vanessa Palmer, regarding Charlie the Dog. (19)

From Daniel Henriques, regarding Proposition 8. (20)

From Karen Kidwell, supporting Woodhouse Marina Green and redevelopment of the Marina Degaussing Station. (21)

From Francisco Da Costa, regarding the resolution approving re-designation of 47 selling spaces at Hallidie Plaza. File No. 121003. (22)

From Trust Women Silver Ribbon Campaign, thanking Supervisors Campos and Avalos for introducing a resolution commemorating the 40<sup>th</sup> anniversary of Roe v. Wade. Copy: Each Supervisor. (23)

From Controller, regarding the Airport Cooling Towers Rehabilitation Project. (24)

From the American Lung Association, announcing the January 16, 2013, release of their State of Tobacco Control Report. (25)

From Julian Quattlebaum, regarding Charlie the Dog. (26)

From Controller, regarding the Airport's Payroll Operations. (27)

From Louis Nastro, regarding Public Notice for the California State Park and Recreation Commission. Copy Each Supervisor. (28)

From Anmarie Mabbutt, regarding Outside Lands festival permit. File No. 121134. (29)

From concerned citizens, regarding public nudity. File No. 120984. 3 letters. (30)

From Allen Matkins, regarding acquisition by eminent domain of construction license for the Central Subway at 1 Stockton Street. File No. 121090. Copy: Each Supervisor. (31)

From Jon Golinger, regarding 8 Washington Project. File No. 121183. (32)

From State Fish and Game Commission, regarding proposed regulatory action relating to the practice of Falconry. Copy: Each Supervisor. (33)

\*From Office of Citizen Complaints, submitting 2012 Third Quarter Statistical Report. (34)

From Amy Perlmutter, regarding Haight Ashbury Recycling Center. (35)

From Olga Ryerson, regarding Executive Directive 12-01, Contractor Partnering and Prompt Payment Policies. (36)

\*From concerned citizens, regarding Vibrant Castro Neighborhood Alliance's petition. Copy: Each Supervisor. 82 letters. (37)

\*From Chris Geiger, regarding release of Pest Prevention by Design Guidelines report. (38)

From Rent Stabilization and Arbitration Board, submitting revised Rent Board Annual Statistical Report for FY2011-2012 (Revised). (39)

From concerned citizens, regarding Oak/Fell Bike Lane. File No. 121118. 24 letters. (40)

\*From concerned citizens, regarding Woodhouse Fish Company Lease. File No. 120987. Copy: Each Supervisor. 226 letters. (41)

From Public Utilities Commission, regarding 415 Area Code Meeting. Copy: Each Supervisor. (42)

\*(An asterisked item represents the cover sheet to document that exceeds 25 pages. The complete document is available at the Clerk's Office, Room 244, City Hall.)

## Board of Supervisors

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**To:** BOS-Supervisors  
**Subject:** COHSF Annual Report / 2012 Accomplishments

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**From:** Coalition on Homelessness, San Francisco [mailto:jfriedenbach@cohsf.org@mail125.us2.mcsv.net] **On Behalf Of**  
Coalition on Homelessness, San Francisco  
**Sent:** Friday, December 21, 2012 3:21 PM  
**To:** Board of Supervisors  
**Subject:** COHSF Annual Report / 2012 Accomplishments

Please support the Coalition in 2013 as we continue the struggle for justice and fairness for homeless and poor San Franciscans

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# Coalition on Homelessness

468 Turk St.  
San Francisco, CA 94102  
415.346.3740 TEL  
415.775.5639 FAX  
[www.cohsf.org](http://www.cohsf.org)

December 21, 2012

Dear Friend,

As I sit down at my desk, take a deep breath to write this letter, only one word comes to my mind. Wow! What a year it was for the Coalition on Homelessness!

This month we are celebrating our 25th year. This is my seventeenth year at the Coalition, and I continue to be amazed by the organization as not only a very special place to work, but by the very breathtaking victories we are able to achieve with dedication, fortitude and a whole lot of elbow grease.

Our victories include creating hundreds of units of permanently affordable housing, and housing subsidies for homeless people; massively expanding substance abuse treatment in San Francisco, creating a number of programs meeting the dire needs of homeless people to name just a few.

We still have a lot of work to do. Ending homelessness is not something we have been able to do overnight; we continue to toil, to push, to strategize, to make gains, to fight off losses. Sometimes it takes us years to make



gains, and sometimes only months. However, none of this could be done without your important support.

If you have not done so already, please take the time to give to us. We need you support – it is individuals like you who pay our rent, keeps our lights on and our telephones ringing.

Wishing you a wonderful, healthy holiday season for you and your family.

Sincerely,

Jennifer Friedenbach  
Executive Director


p.s. If you haven't had a chance, check out the Chronicle's story on our 25 years at  
<http://www.sfgate.com/default/article/Coalition-on-Homelessness-beyond-protest-4120451.php>

p.s.s. Don't forget we have posters, T-shirts and more for sale for last minute holiday gifts.

p.s.s.s You can also support the Coalition by donating your old stuff to Community Thrift, and just select Coalition on Homelessness as your charity of choice.

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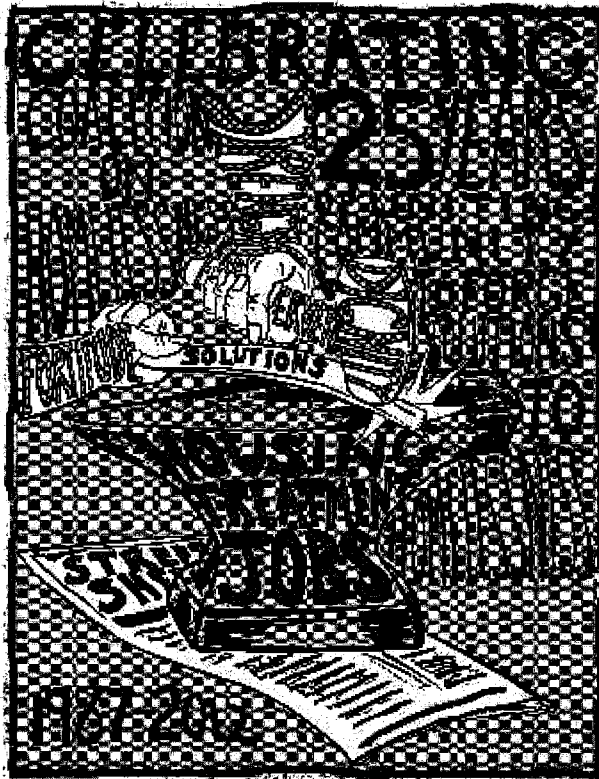
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# Coalition on Homelessness

## 2012 Annual Report

25 Years of Forging Solutions To Homelessness



25th Anniversary Poster by Art Hazelwood

## 2012

### The Year in Review

2012 was a flagship year for the Coalition on Homelessness, as we garnered significant victories beside and on behalf of impoverished people. Here are some of the highlights.

- Homeless families through the Coalition on Homelessness brought attention to the dramatic rise in family homelessness and won a \$1.5 million public match of private funding for new housing subsidies, and the release of 77 vacant public housing units to homeless families.
- Succeeded at gutting legislation that would have criminalized the very state of being homeless in two plazas in the Castro – Jane Warner Plaza and Harvey Milk Plaza.
- Won passage of a resolution calling for a working group to re-imagine shelter reservations, to move away from a system that requires people to stand in line for up to 17 hours.

Continued on page 2

## About the Coalition on Homelessness

Our mission is to address the systemic causes of poverty and homelessness by utilizing a bottom-up organizing model, where our constituents are at the forefront of instituting change. The Coalition on Homelessness is led by homeless people themselves; impoverished families living in campers, disabled shelter residents, elderly occupiers of drop-in centers who direct our work. Two-thirds of our staff are homeless or formerly homeless and some of our projects, such as Housing Justice and Street Sheet are run entirely by people who have or are today facing a housing and economic crisis. Our agenda, our work plans, our structure, our strategies all come directly from our base in a very authentic way – through extensive outreach, dialoguing and inclusion. We work diligently to faithfully represent the poorest San Franciscans, and to collectively overcome destitution with dignity.

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468 Turk Street, San Francisco, CA

415-346-3740 - [www.cohsf.org](http://www.cohsf.org)

## Forging Human Rights

The Human Rights Workgroup of the Coalition on Homelessness envisions a San Francisco in which poor and homeless people are empowered with universal human rights where dignity, respect, compassion and equality are the standard of the community and the policy of the city.

In January, we succeeded at gutting legislation that would have criminalized the very state of being homeless in two symbolic plazas in the Castro - Jane Warner Plaza and Harvey Milk Plaza.

In addition, we did intensive work to redesign the shelter reservation system for single adults. Homeless people were subjected to an intensive runaround that resulted in spending 17 hours a day seeking shelter, only to repeat the process the very next day. We won passage of a resolution calling for a working group to re-imagine shelter reservations, then worked hard to garner the input of homeless people on the design of the new system. In the end, our recommendations were adopted by the Mayor's office, and are expected to be implemented by 2013.

Last year, we beat back the implementation of Tasers, which are known to increase fatalities at the hands of the police, and instead worked to get the police to subscribe to implementing Crisis Intervention Team (CIT) to address people in psychiatric crisis. This year, the police have recommended the use of tasers by CIT officers, and we believe this will destroy the model of verbal de-escalation. We were able to get the issue put off for further study, and meanwhile are pulling together a broad coalition of mental health professionals and others to prevent it's passage.

The economic recession has hit impoverished people the hardest - losing work, losing housing, and having to turn to the city for help in untold numbers. Over the past year, we worked with homeless people and shelter providers to address the deterioration of emergency homeless services due to the recession and related austerity measures. We developed a unique proposal that would both create jobs for homeless people, restore emergency services, and assist those hit hardest by the recession by preventing homelessness through back rent, and on-going rental assistance. In July, our efforts reached fruition as we succeeded at passing a local stimulus package of \$3,000,000 through the Board of Supervisors and the Mayor for new jobs in shelters and resource centers, as well as funding for back rental assistance for those who have recently lost their jobs.

## PEOPLE BEHIND OUR STRUGGLE



*When I joined the Coalition on Homelessness team in April of 2012, I was immediately struck by the deep level of caring held by all of the members. The dedication of the staff is driven by a sincere desire to really change the way we the people view the evolving problems that*

*people dealing with homelessness are facing. I am really proud to be a part of this great effort to manifest change for the lives of so many people.*

**Introducing Wanika Stephens King,  
Development Director**

## Forging Economic Justice

We print 17,000 copies of the the Street Sheet every two weeks, putting out well-researched, hard-hitting, truthful news that comes from The Street Sheet is the oldest continuously-published street newspaper in the United States. Organizationally, it is our public outreach tool and reaches some 17,000 readers every two weeks to educate them about the causes of homelessness. For the vendors of the Street Sheet, it serves as a source of income and an alternative to panhandling. This past year, we have actively engaged vendors in the work of the Coalition, having three different meetings with over 125 Street Sheet vendors. Our content has grown richer, as well, as we now have an active cadre of homeless writers, artists, poets, comic strip producers and more. In addition, the paper is now available on-line, and is sent to our supporters electronically. This year, we hope to bring the newspaper to even greater heights.

## PEOPLE BEHIND OUR STRUGGLE



*"Thank You to the vendors, volunteers, writers, and artists that make Street Sheet possible. Keep up the good work."*

**Introducing Kenneth Dotson, Street Sheet Editor**

## The Year in Review

Continued from page 2

- Beat back the implementation of Tasers, which are known to increase fatalities at the hands of the police, and instead worked to get the police to subscribe to implementing Crisis Intervention Team to address people in psychiatric crisis.
- Succeeded at passing a local stimulus package of \$3,000,000 for new jobs in shelters and resource centers, as well as funding for back rental assistance for those who have recently lost their jobs.
- Ensured all homeless people in San Francisco would receive preferences for public housing.
- Worked with families living at 50 Turk St. to improve horrendously unhealthy living conditions.

## A Year of Transition

This past year, we went through a major organizational re-structuring. We now have two workgroups - Housing Justice and Human Rights - which address a myriad of issues destitute people face daily in San Francisco. As an organization, we provide the resources - leadership development training, political education, and materials. We connect and engage the homeless community with service providers and community based organizations across the City. We work to empower the disenfranchised to lead campaigns targeting legislation that would further burden homeless San Franciscans. We struggle to create policies that help homeless families and individuals move out of City shelters, garages and hotels and into permanent housing. We combine credible research with people power to force change while giving voice to the most destitute.

### PEOPLE BEHIND OUR STRUGGLE



Introducing Jenise Sandfield (rt), Finance Director, Pictured with her daughter Da' Zhan

*"I really enjoy working for the Coalition on Homelessness because our mission truly drives our work."*

### PEOPLE BEHIND OUR STRUGGLE



*"I'm a mother of three beautiful children whom I love more than anything. I'm married but my life is incomplete. The Coalition helped me to draw strength from my inner thought (not giving a new meaning to my life and now helping people I feel useful and happy). I appreciate the opportunity it has given to me and I promise to keep learning every day to provide the tools necessary for people to improve their lives."*

Introducing Irma Nunez, Peer Organizer

## Forging Housing Justice

San Francisco is facing a major housing crisis - with the tech bubble driving rents upward and the poorest San Franciscans who still feel the effects of the recession - we are seeing the waitlists for family shelter and affordable housing skyrocketing. The Housing Justice Workgroup is working for every San Franciscan to have equal access to dignified, affordable, decent, habitable, and safe housing. This powerful and active workgroup, made up of some of the most disenfranchised San Franciscans is looking at vacant housing, getting public housing waitlists reopened back up, and recently helped to pass the Housing Trust Fund.

This past year the workgroup, led by homeless parents and individuals, forged housing justice for many indigent San Franciscans. Our campaign to draw attention to the plight of homeless families blossomed. We conducted research, undertook several direct actions, and carried out a successful media campaign calling for an expansion of rental subsidies, thus filling vacant public housing units with homeless families and ensuring destitute housed families were able to maintain their apartments. 2,200 homeless children are enrolled in public schools. The number of families on the waitlist for shelter is the highest ever. As a result, we won a \$1.5 million match of private funding for new housing subsidies, and the release of 77 vacant public housing units to homeless families, a temporary shelter was put in place, and in the end over 300 families either exited or were prevented from becoming homeless.

We worked on a host of housing policy issues and improved housing conditions for formerly homeless families. We also engaged in a campaign to change the way public housing units are prioritized. In the past, the SFHA only considered those families in shelter as a priority for housing, so very few homeless families were housed. Our work this past summer, again led by homeless parents and individuals, ensured that all homeless people in San Francisco would receive preference for public housing.



**Winter 2012**

**Coalition on Homelessness, SF**

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**Mail to : Coalition on Homelessness - 468 Turk Street - San Francisco, CA 94103**

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**From:** Kurylo, Richard on behalf of Reports, Controller  
**Sent:** Wednesday, December 26, 2012 10:43 AM  
**To:** Calvillo, Angela; Nevin, Peggy; BOS-Supervisors; BOS-Legislative Aides; Kawa, Steve; Howard, Kate; Falvey, Christine; Elliott, Jason; Campbell, Severin; Newman, Debra; sfdocs@sfpl.info; CON-Media Contact; CON-EVERYONE; CON-CCSF Dept Heads; CON-Finance Officers; Kelly, Jr, Harlan; Hood, Donna; Horn, Nancy; Lum, Matthew; Iwata, Wendy  
**Subject:** REPORT ISSUED: The Job Order Contract Program Lacks Sufficient Oversight to Ensure Program Effectiveness

The Office of the Controller's City Services Auditor Division (CSA) today issued a report on its audit of SFPUC's Job Order Contract (JOC) Program. The audit found that the JOC program lacks sufficient oversight to ensure that it is effective and stays true to its original intent. Specifically, the program does not have a formal definition of its intent or guidelines to prevent its use for unintended purposes. Although one of the major advantages of JOC programs is that project costs are determined by pre-negotiated prices, the audit found that the JOC program approved several projects that rely heavily on non-prepriced tasks. Lastly, the audit found that the JOC program has not documented its process for choosing among JOC contractors when assigning projects and does not adequately monitor the quality of the work that contractors produce.

To view the full report, please visit our website at: <http://co.sfgov.org/webreports/details.aspx?id=1523>

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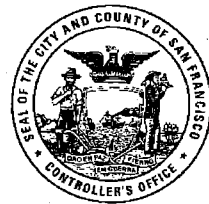
For questions about the report, please contact Director of City Audits Tonia Lediju at [Tonia.Lediju@sfgov.org](mailto:Tonia.Lediju@sfgov.org) or 415-554-5393, or the CSA Audits Unit at 415-554-7469.

# City and County of San Francisco

Office of the Controller – City Services Auditor

## **SAN FRANCISCO PUBLIC UTILITIES COMMISSION:**

**The Job Order Contract Program Lacks Sufficient Oversight to Ensure Program Effectiveness**



*December 26, 2012*

**OFFICE OF THE CONTROLLER  
CITY SERVICES AUDITOR**

The City Services Auditor (CSA) was created in the Office of the Controller through an amendment to the Charter of the City and County of San Francisco (City) that was approved by voters in November 2003. Charter Appendix F grants the City Services Auditor broad authority to:

- Report on the level and effectiveness of San Francisco's public services and benchmark the city to other public agencies and jurisdictions.
- Conduct financial and performance audits of city departments, contractors, and functions to assess efficiency and effectiveness of processes and services.
- Operate a whistleblower hotline and website and investigate reports of waste, fraud, and abuse of city resources.
- Ensure the financial integrity and improve the overall performance and efficiency of city government.

CSA's Audits Unit may conduct financial audits, attestation engagements, and performance audits. Financial audits address the financial integrity of both city departments and contractors and provide reasonable assurance about whether financial statements are presented fairly in all material aspects in conformity with generally accepted accounting principles. Attestation engagements examine, review, or perform procedures on a broad range of subjects such as internal controls; compliance with requirements of specified laws, regulations, rules, contracts, or grants; and the reliability of performance measures. Performance audits focus primarily on assessment of city services and processes, providing recommendations to improve department operations.

CSA conducts its audits in accordance with the Government Auditing Standards published by the U.S. Government Accountability Office (GAO). These standards require:

- Independence of audit staff and the audit organization.
- Objectivity of the auditors performing the work.
- Competent staff, including continuing professional education.
- Quality control procedures to provide reasonable assurance of compliance with the auditing standards.

For questions regarding the report, please contact Director of City Audits Tonia Lediju at [Tonia.Lediju@sfgov.org](mailto:Tonia.Lediju@sfgov.org) or 415-554-5393, or CSA at 415-554-7469.

Audit Team: Mark de la Rosa, Audit Manager  
Edvida Moore, Associate Auditor  
Kat Scoggin, Associate Auditor



# City and County of San Francisco

## Office of the Controller - City Services Auditor

**San Francisco Public Utilities Commission:  
The Job Order Contract Program Lacks Sufficient Oversight to  
Ensure Program Effectiveness**

**December 26, 2012**

### **Purpose of the Audit**

This audit determined whether the San Francisco Public Utilities Commission (SFPUC) used and administered job order contracts in accordance with the San Francisco Administrative Code (Administrative Code), and whether SFPUC effectively administers and monitors its job order contract (JOC) program.

### **Highlights**

Some SFPUC practices undermine the intent of the JOC program and make it vulnerable to abuse. SFPUC could better administer the program and better assess the quality and performance of JOC contractors.

The audit found that:

- SFPUC's JOC program lacks a policy establishing the program's purpose that could provide staff guidance when determining which projects to authorize for implementation under JOCs.
- SFPUC's use of JOCs for some projects undermines the intent of the JOC program. The Administrative Code indicates that repair, maintenance, and minor construction projects with costs less than \$400,000 should be completed under JOCs. However, four of SFPUC's JOC projects were not for repair or maintenance and exceeded the \$400,000 limit. Also, some evidence indicates that SFPUC may have divided some larger projects into smaller projects and executed them under JOCs.
- Despite prepricing of construction materials and tasks being a practice that helps ensure that the City and County of San Francisco (City) receives competitive pricing for JOC projects, 14 (35 percent) of 40 sampled task orders contained non-prepriced tasks. In eight cases, the non-prepriced tasks represented the majority of the total project costs. Heavy reliance on non-prepriced tasks reduces the effectiveness of the competitive solicitation process for JOCs.
- SFPUC lacks procedures for choosing among JOC contractors when assigning projects and does not document project assignment decisions.
- The JOC program inadequately assesses contractors' qualifications, resulting in a heavy reliance on lowest bid criteria when awarding JOCs.
- The JOC program inadequately monitors the quality of contractors' work. The program does not consistently and promptly inspect JOC projects and ensure that project managers submit contractor evaluation forms on time.

### **Recommendations**

The audit report includes 19 recommendations for the SFPUC to more effectively administer and monitor its JOC program. Specifically, the SFPUC should:

- Establish a policy for the JOC program that specifies the intent of the program and may inform project authorization decisions.
- Not authorize projects that rely heavily on non-prepriced tasks.
- Use qualified staff to evaluate contractor qualifications and weight qualifications more heavily than lowest bid when awarding JOCs.
- Develop procedures for assigning projects to JOC contractors and document project assignment decisions.
- Consistently inspect JOC contractors' work and ensure that project managers submit contractor evaluations on time.

*Copies of the full report may be obtained at:*

Office of the Controller • City Hall, Room 316 • 1 Dr. Carlton B. Goodlett Place • San Francisco, CA 94102 • 415.554.7500  
or on the Internet at <http://www.sfgov.org/controller>



**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
Controller

**Monique Zmuda**  
Deputy Controller

December 26, 2012

San Francisco Public Utilities Commission  
525 Golden Gate Avenue  
San Francisco, CA 94102

Mr. Harlan L. Kelly, Jr.  
General Manager  
San Francisco Public Utilities Commission  
525 Golden Gate Avenue  
San Francisco, CA 94102

Dear Commission President and Members, and Mr. Kelly:

The Office of the Controller's City Services Auditor Division (CSA) presents its audit report of the San Francisco Public Utilities Commission (SFPUC) Job Order Contract (JOC) program. SFPUC requested this audit as part of the department's annual audit program. The audit objectives were to determine whether SFPUC used and administered JOCs in accordance with the San Francisco Administrative Code, and whether SFPUC effectively administers and monitors its JOC program.

The audit found that some SFPUC practices undermine the intent of the JOC program and that SFPUC's administration of the program has some weaknesses. Further, SFPUC could better assess the quality and performance of JOC contractors.

The audit report includes 19 recommendations for SFPUC to more effectively administer and monitor its JOC program. SFPUC's response to the audit report is attached as an appendix. CSA will work with SFPUC to follow up on the status of the recommendations made in this report.

CSA appreciates the assistance and cooperation that the SFPUC's staff provided during the audit. For questions about the report, please contact me at [Tonia.Lediju@sfgov.org](mailto:Tonia.Lediju@sfgov.org) or 415-554-5393, or CSA at 415-554-7469.

Respectfully,

Tonia Lediju  
Director of City Audits

cc: Mayor  
Board of Supervisors  
Civil Grand Jury  
Budget Analyst  
Public Library

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## **GLOSSARY OF TERMS**

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Adjustment factor	A multiplier of costs in the Construction Task Catalog submitted by potential JOC contractors in their initial proposal
Administrative Code	San Francisco Administrative Code
CAB	Contract Administration Bureau of SFPUC
CTC	Construction Task Catalog®, a proprietary list of costs for construction materials and tasks that is created by a consultant, The Gordian Group
City	City and County of San Francisco
Commission	Governing body of the San Francisco Public Utilities Commission
CSA	City Services Auditor of the Controller's Office
JOC	Job Order Contract
NTP	Notice to Proceed
SFPUC	San Francisco Public Utilities Commission
WSIP	Water System Improvement Program



## INTRODUCTION

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### Audit Authority

This audit was conducted under the authority of the Charter of the City and County of San Francisco (City), Section 3.105 and Appendix F, which requires that the Office of the Controller (Controller), as the City Services Auditor (CSA), conduct periodic, comprehensive financial and performance audits of city departments, services, and activities. The San Francisco Public Utilities Commission (SFPUC) requested this audit as part of the department's annual audit program.

### Background

*Job order contracting allows government to expedite simple, low-risk construction projects while mitigating risks.*

Government entities use job order contracting to expedite simple, low-risk construction projects, primarily those to effect repair and maintenance. SFPUC's usual process for contracting construction projects involves identifying the need, designing the specifications for a project, requesting proposals, reviewing proposals, and awarding the contract. The process is competitive and designed to ensure that the City awards the contract for a specific project to a contractor who can perform all the work required, including any specialized tasks, at the lowest cost.

For job order contracting, contractors submit proposals not for a specific project, but for a general contract that will allow them to perform repair, maintenance, and minor construction projects as needed. In the job order contract (JOC) process, SFPUC identifies a need and determines the scope and requirements of the project, then allows the JOC program manager to assign the project to a prequalified contractor. As a result, projects under JOCs are awarded in significantly less time and with significantly fewer resources used than projects awarded under the usual construction process.

In a 2011 comparison of energy-efficiency upgrade projects executed under SFPUC's JOC program versus its usual construction contracting process, CSA's Performance Unit found that the usual process took an average of 17.4 months to award the project to a contractor, compared to 8.5 months using the JOC process.

Office of the Controller, City Services Auditor

**The Job Order Contract Program Lacks Sufficient Oversight to Ensure Program Effectiveness**

*SFPUC began its job order contract program in 2006.*

In 2006 SFPUC awarded its JOC consulting services contract to The Gordian Group, the sole responsive, responsible bidder, to create construction unit price books for the SFPUC's multiple bureaus and enterprises. Each of The Gordian Group's price books is known as a Construction Task Catalog® or CTC. Compensation for The Gordian Group's services is 1.75 to 1.95 percent of the total costs of each project completed using JOCs.

*SFPUC selects JOC contractors through competition.*

To establish a JOC, SFPUC issues requests for proposal and reviews proposals submitted by various contractors. Each contractor includes in its proposal an adjustment factor, which is used as a multiplier to the unit prices listed in the CTC. The adjustment factor includes contractor costs such as overhead, mobilization, profit, insurance, bonds, and any adjustment needed for subcontracting costs. SFPUC evaluates proposals based on the qualifications of the contractor and selects the contractor that proposes the lowest adjustment factor. SFPUC establishes with each accepted contractor a contract not to exceed five years that governs all of the contractor's projects to be completed in that period.

Although the adjustment factor is the basis of competitive solicitation for JOCs, it effectively ensures that the department received a competitive price only as long as JOC projects are composed entirely or mostly of the prepriced tasks in the CTC. For tasks not in the CTC, SFPUC does not apply the adjustment factor.

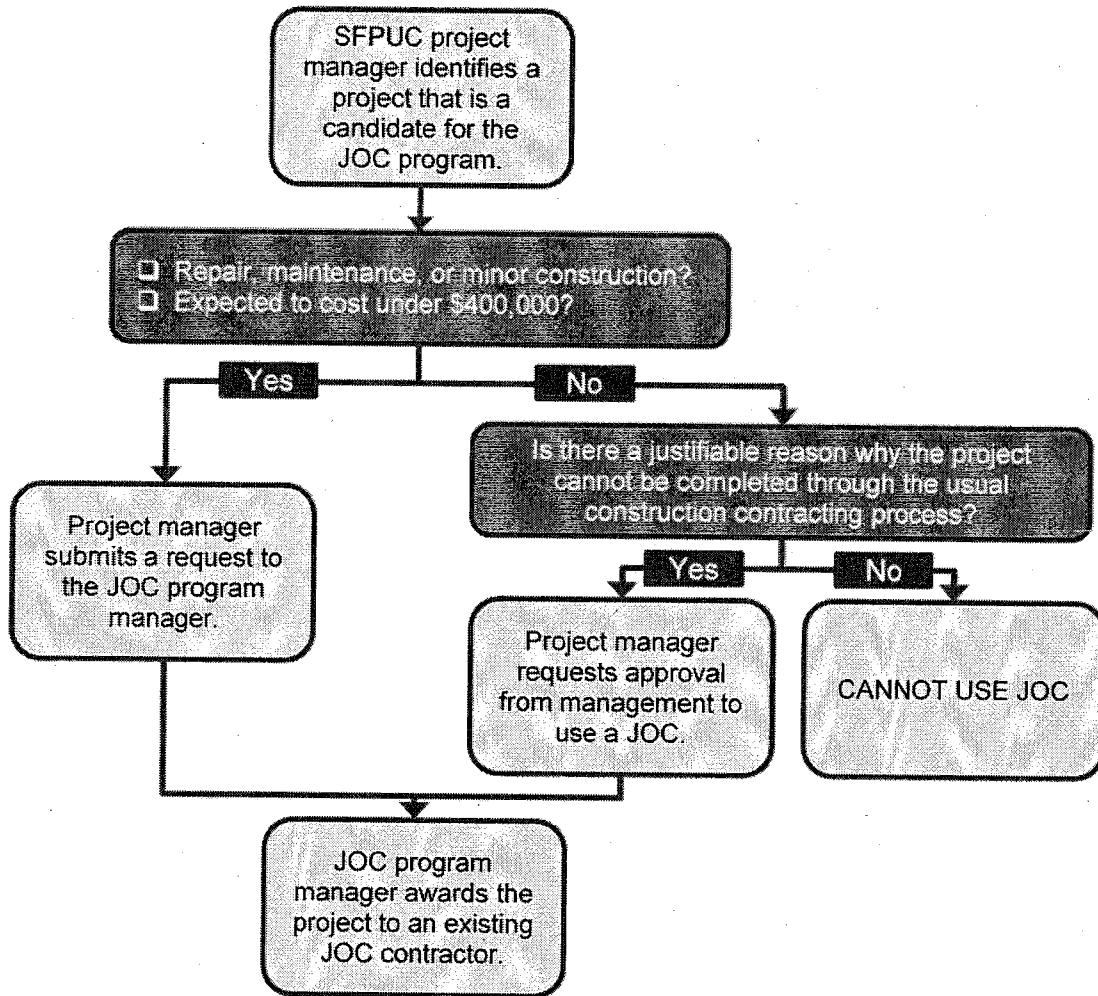
*SFPUC uses JOCs for a variety of projects including electrical work, spot sewer repair, and energy-efficiency retrofits.*

JOC task orders originate from SFPUC project managers who identify projects that are repairs, maintenance, or minor construction and are expected to cost under \$400,000. The project manager submits a request to the JOC program manager, who determines if the project is appropriate for a JOC and, if so, awards the project to one of the preapproved contractors. The contractor then submits a price proposal detailing all of the costs required to complete the work. This proposal must include bids for non-prepriced tasks (items not in the CTC) when applicable.

If needed, the scope and costs of the task order can be adjusted by issuing a new task order that modifies the existing one. The JOC program can authorize some projects that do not fit the normal criteria for using JOCs,

but only if the department head approves this in writing, establishes the urgency of the project, and justifies why it should proceed under a JOC rather than through a formal competitive solicitation process. Exhibit 1 shows the process for assigning projects executed under JOCs.

**EXHIBIT 1 Process for Identifying and Assigning Projects Executed Under JOCs**



Source: Policies and procedures for SFPUC's JOC program and auditor's interviews of program staff.

SFPUC has used JOCs for a wide range of construction activities, including general construction and general engineering, specialized electrical work in power turbines and switchyards, spot sewer repair, lighting, and energy-efficiency retrofits.

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**The Job Order Contract Program Lacks Sufficient Oversight to Ensure Program Effectiveness**

SFPUC had 26 active JOCs in August 2011.

On August 19, 2011, SFPUC had 34 JOCs, 26 active and 8 inactive. The 26 active JOCs had a combined not-to-exceed total of \$91 million. From the program's inception through mid-August 2011, the SFPUC issued 630 task orders totaling close to \$60 million under JOCs. Exhibit 2 shows the 630 task orders by project status.

**EXHIBIT 2 SFPUC Task Orders by Status on August 19, 2011**

Status/Phase	Task Order Count	Sum of Task Order
Project Initiation	40	\$ --
Proposal Due	14	--
Proposal Review	23	114,651
Authorized	14	1,258,231
Construction in Progress	136	18,257,112
Canceled*	54	319,687
Closed	349	39,905,822
<b>Total</b>	<b>630</b>	<b>\$59,855,503</b>

\*Some costs incurred, but task order not authorized.

Source: SFPUC's PROGEN (JOC Software).

*The Administrative Code authorizes and provides guidelines for the use of JOCs.*

The San Francisco Administrative Code (Administrative Code) authorizes the use of JOCs for the performance of public works maintenance, repair, and minor construction projects. Administrative Code Section 6.62 defines a JOC as "an indefinite quantity contract with a predefined set of bid items that are assigned on a periodic or task order basis." The code sets the maximum value of each task order at \$400,000, which may only be exceeded if the department head establishes the urgency the project and the justification for using the JOC program.

**Objectives**

The primary objectives of this audit were to determine whether SFPUC used and administered job order contracts in accordance with the Administrative Code, and whether SFPUC effectively administers and monitors its JOC program.

**Scope and Methodology**

The audit addressed the period of July 1, 2007, through August 31, 2011. To achieve the audit objectives, the audit team:

- Reviewed the consistency of JOC program policies and procedures with the requirements in Administrative Code Section 6.62.

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The Job Order Contract Program Lacks Sufficient Oversight to Ensure Program Effectiveness

- Administered an anonymous survey to all SFPUC project managers who managed at least one JOC project since the program's inception. The survey concerned the appropriateness and effectiveness of JOC use, and had a 71 percent response rate.
- Reviewed a sample of 40 task orders to determine compliance with the Administrative Code, JOC program policies and procedures, and the original intent of the JOC program. The sample included 30 purposefully selected task orders that reflected risks identified by surveyed project managers and other SFPUC staff and 10 randomly selected task orders.
- Evaluated the effectiveness of JOC program oversight by reviewing the controls and procedures for administering the various stages of a JOC task order.
- Interviewed SFPUC's JOC program and Contract Administration Bureau staff regarding task order administration and invoice approval practices.
- Compared certain JOC processes with practices in other jurisdictions.
- Visited 15 sites where JOC contractors performed work.

**Statement of Auditing Standards**

This performance audit was conducted in accordance with generally accepted government auditing standards. These standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. CSA believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

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## CHAPTER 1 – SFPUC’s Use of JOCs for Some Projects Undermines the JOC Program’s Intent

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### Summary

SFPUC’s job order contract (JOC) program lacks a policy establishing the program’s purpose and goals to better guide program staff in making decisions such as selecting which projects to authorize. As a result, SFPUC undermines the intent of the JOC program when it uses approved contractors to perform projects whose costs exceed the \$400,000 limit or to execute projects other than repair, maintenance, and minor construction based on prepriced materials and construction tasks. Of the 40 task orders reviewed, 4 showed that SFPUC management approved projects that were not repairs or maintenance and exceeded \$400,000 due to time constraints or to achieve cost savings.

SFPUC may have intentionally divided larger projects into smaller ones. Despite prepricing of construction materials and tasks being what ensures that JOCs are not used to circumvent the regular competitive bidding process, 14 (35 percent) of the 40 task orders reviewed contained non-prepriced tasks. In 8 task orders, the non-prepriced tasks represented the majority of the task order’s total cost. SFPUC also inappropriately approved 5 task orders for federally funded projects, which occurred because federal regulations contradict the expectations of the SFPUC’s commission for JOCs.

### Finding 1.1

**SFPUC’s JOC program has no policy establishing its purpose and goals.**

The JOC program lacks a policy establishing the program’s purpose and goals to better guide program staff in making decisions such as selecting which projects to authorize.

*The Administrative Code does not specifically describe the purpose of JOC programs.*

Although the Administrative Code mentions the types of projects that may be completed through the JOC program, it does not specifically establish the purpose and goals of the City’s JOC programs. According to The Gordian Group, SFPUC’s JOC consultant, the purpose of job order contracting is to save resources and time by

expediting simple construction projects. After listing the types of projects for which JOCs may be used, the Administrative Code states that the department head may approve exceptions due to urgency. This implies that an exception can be made to save time when there is an urgent need, but the code does not mention cost savings as a basis for exceptions. Nonetheless, SFPUC approved at least one JOC project under the exception policy due to cost savings (see Finding 1.2), indicating that savings may be a goal of SFPUC's JOC program.

*The more specifically stated the purpose of a JOC program is, the more guidance program staff have when authorizing projects.*

Some JOC programs have enabling legislation that establishes formal goals and provides stronger guidance to program staff for determining which projects should be executed through the program. In contrast to the City's Administrative Code, the California Public Contract Code explicitly sets out the goals and intention of the Los Angeles Unified School District's JOC program as "reducing project cost and expediting project completion," further stating that the program should not be used instead of traditional methods of project delivery if it would not result in more cost savings.<sup>1</sup>

A policy that states the program's purpose and establishes clear criteria to guide project authorization decisions would help SFPUC ensure that the program authorizes only appropriate projects. Further, it would help SFPUC measure the program's effectiveness.

## **Recommendation**

1. The San Francisco Public Utilities Commission should develop a policy for the job order contract program specifying the program's intent and providing specific criteria describing the projects that may be authorized. The commission should approve the policy.

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<sup>1</sup> California Public Contract Code section 20919.



**Finding 1.2**

**Some of SFPUC's job order contract projects undermine the intent of the program.**

*Some task orders exceeded the \$400,000 eligibility limit.*

Of the 40 task orders reviewed for the audit, four (10 percent) were not repair or maintenance in nature and exceeded the JOC program's \$400,000 limit in the Administrative Code. Of 312 task orders with a status of *closed* or *in construction*, 14 (4 percent) had total costs exceeding the \$400,000 limit. The Office of the City Attorney interprets this limit as delineating minor construction from major construction. Although some of these 14 task orders were originally under the threshold and their total costs increased due to unforeseeable issues, 4 JOC task orders appeared to be major projects, as listed in Exhibit 3.

<b>EXHIBIT 3      Examples of Major Projects Implemented Under the JOC Program With SFPUC Management Approval</b>		
<b>Task Order Number</b>	<b>Task Order Description</b>	<b>Contracted Cost</b>
HH932-16	Acoustic Fiber Optic Monitoring System Installation (acoustic monitoring project): Installing an acoustic fiber-optic cable monitoring system in a section of the San Joaquin Pipeline.	\$1,387,290
JOC34-03	Sunol Yard Facility Improvement Prefabricated Building (Sunol Yard project): Constructing a 60' by 60' prefabricated building, concrete foundation, and utilities.	861,479
WD2587-20	Cooking Oil Package Plant Tank Installation (biodiesel project): Installing a feedstock plant to process raw waste vegetable oil from restaurants into biodiesel. Part of the SF Greasecycle Program.	562,000
WD2586R-14	Merced Manor/Central Pump Station Irrigation System (irrigation project): Replacing the existing irrigation system, which had exceeded its lifespan, with a new, water-efficient system, including temporary fencing to protect newly seeded landscape.	477,502

Source: Auditor's review of SFPUC's JOC project files.

Of the 44 project managers who responded to the audit's survey, 5 (11 percent) indicated that JOC is not always used for maintenance, repair, or minor construction projects, as intended. One project manager stated that JOC is frequently used for work that should be performed under a regular construction contract.

For the acoustic monitoring, Sunol Yard, and irrigation projects (see Exhibit 3), SFPUC management approved

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*SFPUC management approved use of the JOC program for three major construction projects to save time.*

the use of the JOC program rather than the normal construction bid process because of time constraints. Details of each project are as follows:

- Acoustic monitoring project. This project required shutting down the San Joaquin Pipeline. To take advantage of a shutdown that was already scheduled as part of construction under the Water System Improvement Program (WSIP), SFPUC could not put the project through the more time-consuming regular bidding process.
- Sunol Yard project. This project had to be completed by a stated deadline for SFPUC to comply with a contract that it had established to rent property to another party.
- Irrigation project. This project executed work eliminated from the scope of a WSIP project in the same location. According to an internal SFPUC memorandum, neighbors in the area were impatient for construction to be complete.

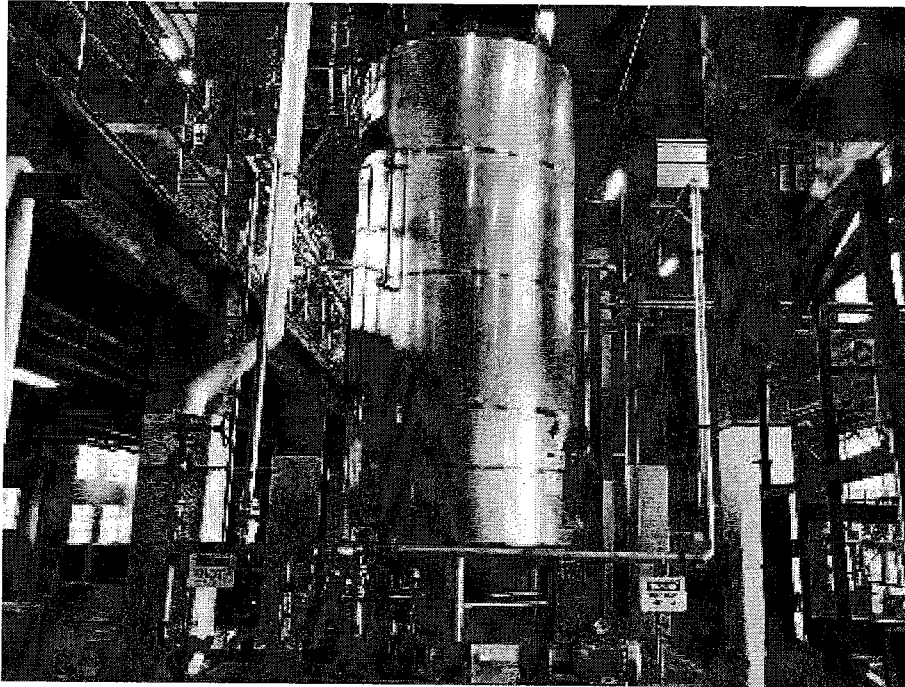
Although saving time appears to have been the primary reason these large projects were done under JOCs, one major construction project that was an exception to the \$400,000 threshold was requested for an entirely different reason.

*In one case, the biodiesel project, SFPUC approved a major construction project as a JOC task order to realize substantial cost savings.*

SFPUC management approved the biodiesel project as a JOC task order not due to time constraints, but because attempts to complete a significant portion of the project through another type of procurement would have resulted in substantially higher costs. SFPUC identified a vendor with the requisite experience and lowest bid for the specialized tank required for converting raw vegetable oil from restaurants into biodiesel fuel. However, the vendor could not meet all of the City's requirements to become an approved vendor. When SFPUC looked into procuring the tank through a third party, it found that the cost would have increased by \$144,000 (40 percent). Consequently, the project staff asked to include the tank procurement in the existing JOC task order to assemble and integrate the tanks, thereby avoiding the cost increase. Exhibit 4 shows the tank after installation.

**EXHIBIT 4**

**Cooking Oil Package Plant Biodiesel Processing Tank**



The biodiesel project required installation of this tank as part of the SF Greasecycle Program, which is used to process raw waste vegetable oil from restaurants into biodiesel fuel for city vehicles.

Source: Auditor's photo taken on December 2, 2011.

*SFPUC may have divided some major projects into smaller projects.*

Although SFPUC management approved the execution of the projects discussed above through JOCs as justified exceptions, evidence indicates that SFPUC sometimes intentionally breaks down larger projects into smaller projects. Regarding the biodiesel project, an SFPUC project employee expressed that the original intent was to separate project costs to avoid the extra steps and approvals required for a project exceeding \$400,000. Similarly, department staff identified the Sunol Watershed project as a large project that had been divided into multiple task orders and executed under the JOC program. SFPUC arranged for the preparation of the Sunol Watershed Housing site and the actual building installation under two task orders, both awarded to the same contractor.

Permitting major construction projects to be divided into multiple task orders assigned to a single vendor gives the appearance that SFPUC sometimes chooses to use JOCs out of convenience to circumvent the City's formal, project-specific, competitive solicitation process that is otherwise

required.

## Recommendations

The San Francisco Public Utilities Commission should:

2. Ensure that its job order contract program adheres to the policy and criteria established per Recommendation 1 when determining which projects to authorize under job order contracts to avoid undermining the program's intent.
3. Ensure that major projects that are subject to the City's competitive solicitation process are not broken into multiple task orders to fall below the job order contract program's dollar threshold.

## Finding 1.3

**Although the primary advantage of using JOCs is that costs are based on prenegotiated prices, a number of JOC projects relied significantly on non-prepriced tasks.**

*A third of task orders relied on non-prepriced tasks.*

More than one-third of task orders the audit reviewed — 14 of 40 (35 percent) — included non-prepriced tasks to complete the project, undermining the intent of the JOC program. The prepricing of tasks is a principal feature of any JOC program. This prenegotiated cost structure makes the time-consuming, formal, competitive solicitation process unnecessary. More than 20 percent of JOC project managers responding to the audit's survey disagreed that JOC contractors primarily perform tasks that are already included in the Construction Task Catalog® (CTC).

*Non-prepriced tasks represented the majority of some project's costs.*

For some task orders, the non-prepriced tasks were a significant portion of the total costs. For eight task orders, the non-prepriced tasks made up more than 50 percent of the total project costs. In four of those projects, the non-prepriced tasks represented more than 80 percent of the total costs. Exhibit 5 shows the task orders the audit sampled that included non-prepriced tasks and the non-prepriced costs as a proportion of the total project costs.

<b>EXHIBIT 5 Audited Task Orders With Non-prepriced Tasks</b>				
Task Order	Task Order Description	Total Costs	Non-prepriced tasks	
			Costs	As Percent of Total Costs
JOC-21-10	Water security initiative - central pump station	\$144,246	\$128,190	89%
HH-932-16	Acoustic fiber optic monitoring system installation	1,387,290	1,143,893	82%
JOC-21-09	Water security initiative - city distribution division	80,597	65,834	82%
JOC-21-05	Water security initiative - fire station #9	86,109	68,770	80%
JOC-21-04	Water security initiative - fire station #43	77,010	60,127	78%
JOC-21-03	Sunol watershed housing building installation	214,673	134,661	63%
WD-2587-20	Cooking oil package plant tank installation	562,000	309,146	55%
WW-477-08	Sewer repair and monitoring	384,252	200,312	52%
WD-2587-05	HVAC and electrical	175,968	71,302	41%
JOC-21-24	Sunol office space set-up	145,554	44,694	31%
JOC-27-04	HVAC energy efficiency	65,443	13,706	21%
JOC-21-02	Sunol watershed housing site preparation	181,375	26,692	15%
WD-2533-06	Miscellaneous crack repair	95,741	3,876	4%
WW-476-06	Spot sewer repair	245,877	3,740	2%
<b>Total</b>		<b>\$3,846,136</b>	<b>\$2,274,943</b>	<b>59%</b>

Source: Auditor's review of SFPUC's JOC project files.

*Heavy use of non-prepriced tasks undermines the competitive bidding of JOC contractors.*

As mentioned in the introduction, the inclusion of the adjustment factor in potential JOC contractors' original proposals allows SFPUC to select contractors using a competitive solicitation process. However, the adjustment factor, a multiplier, is not applied to non-prepriced tasks. Rather, to perform tasks which are not in the CTC, JOC vendors must solicit bids from subcontractors. Although vendors are encouraged to solicit multiple bids in a competitive process, they are not required to do so. Consequently, heavy reliance on non-prepriced tasks undermines the intent of the JOC program to maintain competitive bidding.

**Recommendations**

The San Francisco Public Utilities Commission should:

4. Establish for JOC program projects a maximum percentage that non-prepriced task costs can be of total project costs.
5. Not approve as JOC task orders projects whose

proposed non-prepriced task costs exceed the maximum percentage established.

**Finding 1.4**

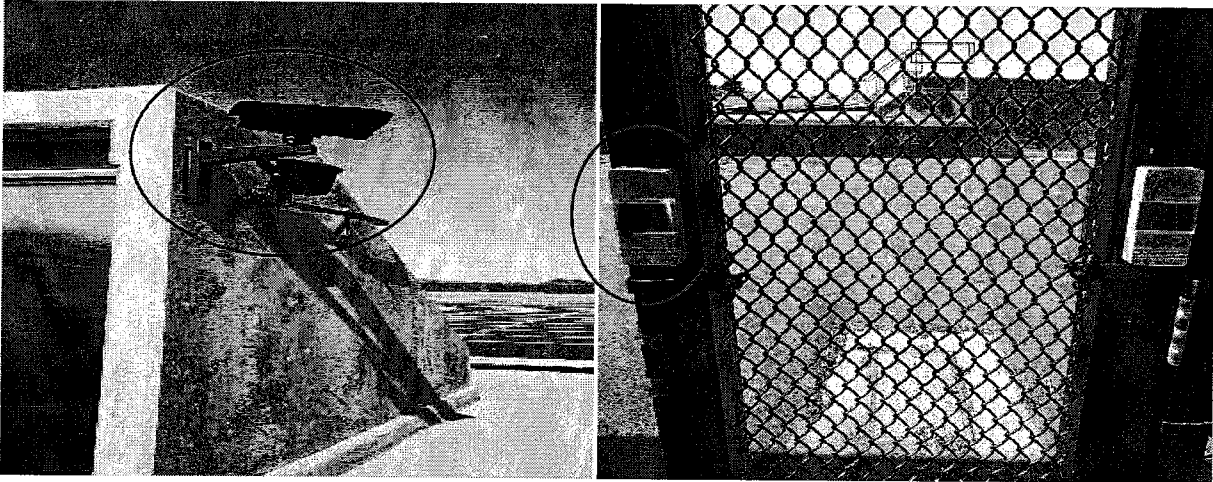
*SFPUC authorized some task orders for federally funded projects despite contradictions between federal funding requirements and requirements for JOCs.*

**SFPUC inappropriately implemented federally funded projects under JOCs.**

Because some regulations for federally funded contracts contradict requirements of the SFPUC commission for JOCs, the department's authorization of JOC task orders for federally funded projects was inappropriate. The audit identified five task orders that SFPUC executed under two JOCs related to developing a drinking water contamination warning system, a project funded by a federal grant. When the commission approved the two contracts governing these task orders, it specified expectations that the contracts be used only to execute projects funded from enterprise funds. The commission also expressed expectations that the contractors would comply with San Francisco Chapter 14B, which requires contractors to exercise geographical preference in selecting subcontractors by using local business enterprises for at least a portion of the work.

Federal regulations applicable to contracts funded with federal monies explicitly require that the contract contain no conflicting city requirements such as geographical preferences in the selection of those who will perform the work. Therefore, SFPUC must not authorize a federally funded project through the JOC program when regulations for using federal funds directly contradict the commission's resolutions that lay out expectations for JOCs. Exhibit 6 depicts the site of one of the five federally-funded task orders the audit identified.

**EXHIBIT 6** EPA-Funded Contamination Warning System at Sunset Reservoir



This project to improve the security of the Sunset Reservoir included the installation of a certified security system featuring cameras and an upgraded gate with an access card reader.

Source: Auditor's photos taken on December 2, 2011.

**Recommendation**

6. The San Francisco Public Utilities Commission should ensure that the JOC program does not authorize task orders for projects funded with money from the federal government under JOCs that conflict with federal funding requirements.

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## CHAPTER 2 – SFPUC’s Administration of the JOC Program Has Weaknesses

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### Summary

SFPUC’s administration of the JOC program should be improved. The program’s policies and procedures lack criteria and guidance for key processes. For instance, the program lacks formal procedures for choosing which contractor receives a given project. The policies and procedures also omit criteria for allowing exceptions to the notice to proceed policy and, in 13 percent of task orders reviewed, the contractor began work before SFPUC issued a notice to proceed. The JOC program also maintains no documentation of how it made its project assignment decisions.

Some of SFPUC’s controls over the approval process for invoices of JOC projects are insufficient. The staff that verifies the accuracy of costs on invoices lacks access to the system containing unit cost information. In one instance, the program did not adequately document decisions regarding payment of an invoice.

### Finding 2.1

**The JOC program manager does not have a systematic process or maintain documentation for project assignment decisions.**

*The process for assigning task orders to JOC contractors is undocumented.*

The process for assigning task orders to JOC contractors is informal, undocumented, and lacks transparency. According to the SFPUC’s JOC program procedures, the JOC program manager assigns projects to JOC contractors. However, the program procedures do not provide criteria or guidelines to use in determining which contractor is most appropriate for each task order project.

The JOC program manager could not describe a systematic process she used to assign task orders, and confirmed that she does not maintain documentation of the selection process. However, she did indicate that project managers sometimes request a specific contractor. Without a systematic procedure for assigning task orders and without records of how it makes task order assignment decisions, the JOC program cannot

ensure that it does not give preferential treatment to one contractor over another.

## Recommendations

The San Francisco Public Utilities Commission should:

7. Develop procedures for assigning JOC projects to contractors.
8. Retain documentation on how the contractor for each JOC task order project was selected.

## Finding 2.2

**SFPUC sometimes allows contractors to begin work before the Office of the Controller confirms that funds are available.**

Although the Administrative Code does not allow a department to incur costs without the Office of the Controller's confirmation that funds are available to pay for the expenditure (referred to as certification), five (13 percent) of the 40 task orders reviewed showed that the contractors began work before the issuance of the notice to proceed (NTP), which SFPUC sends upon receiving certification.

*SFPUC sometimes approves contractors to begin work early because getting a notice to proceed takes too long.*

The JOC program policies and procedures state that the contractor may begin work after an NTP is issued or, in rare instances, work may begin before an NTP with an executed Justification for Exception to Policy form and an agreed-upon start date. Five project managers that responded to the audit's survey indicated that it takes too long to get from project initiation to an NTP. According to JOC program staff, the time it takes for SFPUC's Contract Administration Bureau (CAB) to verify a project's funding source availability with the Office of the Controller delays the issuance of an NTP. These delays sometimes cause project managers to allow contractors to begin work before the issuance of an NTP.

*Without an NTP, SFPUC cannot be assured that a project's funding source is adequate to cover the expenditure and appropriate for the project.*

According to JOC program staff, an NTP is issued only after the department receives certification from the Office of the Controller. Beginning work before an NTP is risky for both the contractor, who may be working without assurance that payment will be forthcoming, and SFPUC, which violates the Administrative Code by incurring costs without certification.

**Recommendation**

9. The San Francisco Public Utilities Commission should comply with the Administrative Code by obtaining certification of funding from the Office of the Controller before permitting the contractor to begin work, either unofficially or with an official notice to proceed.

**Finding 2.3**

**Some of SFPUC's controls over approval of JOC project invoices are weak.**

SFPUC staff that verifies costs on invoices lacks access to cost information, and project managers' recommendations to deny payment on questionable items can be overridden.

*CAB staff lacks access to unit cost information.*

SFPUC's CAB staff has the primary responsibility for verifying that invoices for JOC projects are accurate. Because the majority of items on JOC invoices are based on the predetermined prices in the Construction Task Catalog®, CAB staff should be able to verify the unit cost of items on the invoice. However, CAB employees report that they must rely on the reviews of the program manager and JOC staff because they lack access to PROGEN, the JOC contracting software containing the unit price information. Consequently, CAB staff cannot verify unit prices on submitted invoices. Without reviewing unit price information, SFPUC is at greater risk of under- or overpaying its contractors.

*The JOC program manager can override project managers' cost approval recommendations.*

Decisions on paying invoices should be better documented. In one case where a project manager recommended in writing that SFPUC not pay for a \$25,000 line item of work for which the contractor had not provided supporting documentation, the JOC program manager overrode the recommendation and used correction fluid on the paperwork to delete the project manager's comment. Ultimately, the project manager's supervisor upheld the program manager's decision and approved payment. Regardless of the outcome of this instance, the deletion of the project manager's comments on the document makes it difficult for interested parties to determine exactly what happened and could create the appearance of an improper act.

**Recommendations**

The San Francisco Public Utilities Commission should:

10. Provide access for Contract Administration Bureau staff to the PROGEN software, which includes unit cost information, to verify invoice prices.
11. Ensure that Contract Administration Bureau staff verifies unit costs on JOC invoices using cost information in the PROGEN software. This review may consist of spot checking unit costs or selecting the highest value line items or unit costs to verify.
12. Document and maintain documentation of all decisions related to JOC payments.

## CHAPTER 3 – The JOC Program Inadequately Assesses Contractor Quality

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### Summary

The JOC program does not adequately assess contractor quality before awarding JOCs or after contractors perform work on JOC projects. The JOC program manager, an SFPUC administrator, primarily uses the lowest bid as the basis to evaluate potential contractors' qualifications and award JOC contracts. However, the JOC program should evaluate contractors' qualifications by using the experience and expertise of its own qualified staff and, similar to other jurisdictions, by weighing contractor qualifications more heavily than lowest bid.

After awarding a JOC to a contractor, SFPUC inadequately assesses the contractor's quality of work. While the JOC program manager tries to coordinate inspection support from other SFPUC employees and prioritize the inspection work of its only staff inspector, qualified staff does not inspect the contractors' work on all JOC projects at key stages and upon project completion. Additionally, project managers may not always complete contractor evaluation forms and do not always complete them on time. Without consistent, timely information on the quality of contractors, the JOC program manager cannot adequately monitor the contracts, terminate them when necessary, and prevent offering new task orders or new contracts to inadequately performing contractors.

### Finding 3.1

#### **SFPUC inadequately assesses the qualifications of potential JOC contractors.**

*SFPUC does not use staff with the technical expertise or experience to evaluate potential JOC contractors' qualifications.*

Although the Administrative Code requires SFPUC to select the lowest responsible bidder, the department inadequately assesses potential JOC contractors' qualifications to determine if they are "responsible," awarding contracts primarily based on lowest bids. The Administrative Code states that a responsible bidder or contractor is one who meets the qualifying criteria established for a particular project, including expertise and experience. After SFPUC issues a request for

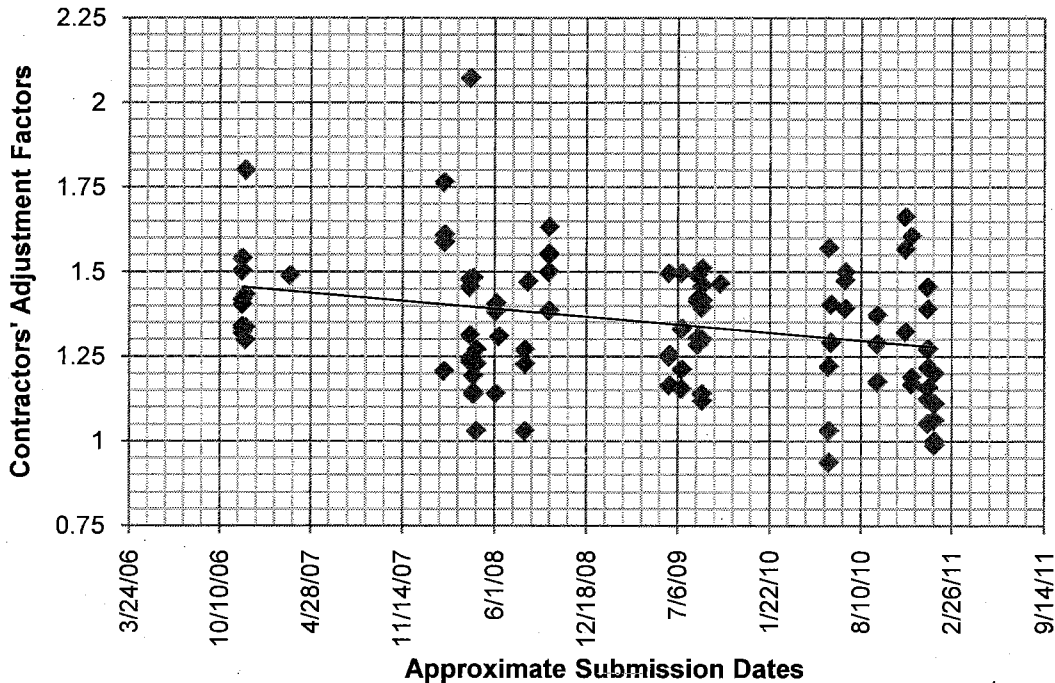
proposal to potential JOC contractors, the JOC program manager, an administrator, reported being the primary person evaluating the qualifications of the potential JOC contractors based on their proposals. While SFPUC project managers may occasionally provide oral comments on some contractors, the JOC program lacks established procedure for ensuring that staff with technical expertise and experience participates in evaluating potential contractors' qualifications.

*When SFPUC selects JOC contractors that are the lowest bidder rather than the most qualified, poor performance sometimes results.*

Without a thorough investigation of contractors' qualifications, the JOC program is reduced to awarding contracts almost exclusively based on bid amount. Of JOCs for which there were multiple bidders, SFPUC awarded 79 percent to the lowest bidder. According to survey results from SFPUC project managers, the current selection procedures sometimes cause SFPUC to award JOCs to contractors that perform poorly and do inferior work.

The lowest bidder is the contractor that proposes the lowest adjustment factor. As stated earlier in this report, the adjustment factor is multiplied by the prices of materials and tasks in the Construction Task Catalog® to cover a contractor's overhead and profit. Since 2006 contractors have been submitting decreasing adjustment factors, as shown in Exhibit 7.

**EXHIBIT 7 JOC Contractors' Average Submitted Adjustment Factors Have Steadily Decreased Since 2006**



Source: Auditor's analysis of SFPUC data.

In 2010 and 2011 some contractors proposed adjustment factors of one or below. Because the adjustment factor is supposed to account for the contractors' overhead expenses and profit margin, such bids effectively require the contractors to forgo profit or operate at a loss unless the prices of materials and tasks in the Construction Task Catalog® are higher than current actual prices. The JOC program manager indicated that some contractors propose very low adjustment factors because they see it as a way to improve their chance of getting bigger contracts with the City in the future. If this is the case, some contractors are underbidding with hopes of recovering their costs and increasing profit in other ways.

*Some other local governments are moving away from using lowest bid as the primary or only*

While the SFPUC JOC program is not unique in awarding most of its JOCs on the basis of lowest bid, other JOC users put greater emphasis on contractor qualifications. For example, the City of Seattle evaluates

*criterion for selection.*

and scores contractors' qualifications and may invite contractors for an interview to establish a short list of qualified contractors. It is only after this process that Seattle invites a few, select contractors to submit their pricing. A manager at the Los Angeles County Department of Parks and Recreation stated that he suggested restructuring the department's bid process to award JOCs to the most qualified contractor, rather than to the lowest qualified bidder, stating that the current practice results in contractors padding project costs to offset their low (adjustment factor) bids. If SFPUC adopted procedures that selected JOC contractors based primarily on their qualifications, any contractor's attempt to be selected by proposing an unrealistically low adjustment factor would be ineffective.

### **Recommendations**

The San Francisco Public Utilities Commission should:

13. Establish and implement procedures to ensure that SFPUC engineers or other technically trained employees evaluate the qualifications of potential JOC contractors.
14. Place greater weight on qualifications than proposed adjustment factors when selecting JOC contractors.

### **Finding 3.2**

#### **SFPUC inadequately inspects JOC projects.**

None of the 22 closed JOC task order files reviewed for the audit contained any inspection reports from the period in which the project was performed or upon project completion. Consistent with this, of the 44 project managers responding to the audit's survey, 4 (9 percent) indicated that oversight and inspection of task order projects is insufficient.

The JOC program has one full-time inspector on staff, who indicated that he lacks time to sufficiently inspect the numerous JOC projects. Instead, the JOC inspector concentrates on critical tasks within certain projects. The inspector also stated that his workload did not allow time for preparing inspection records and he did not keep a record of which projects he visited on any given day. The JOC program manager stated that he coordinates with



other SFPUC employees for inspection support when possible.

Failure to properly inspect projects could result in SFPUC inadvertently accepting inferior work, and additional future costs if improperly performed work has to be redone or prematurely repaired or replaced.

### **Recommendations**

The San Francisco Public Utilities Commission should:

15. Ensure that qualified SFPUC staff inspects all JOC projects.
16. Ensure that inspectors complete inspections of JOC projects in a timely manner.
17. Retain documentation of each inspection of JOC projects, including records of the date, time, and duration of inspection visits.
18. Consolidate key information on timeliness and quality of work from inspections of completed projects for JOC contractors to inform future assessments of contractor qualifications when considering new JOCs.

### **Finding 3.3**

#### **Some project managers do not complete contractor evaluations on time.**

Some of the task order files for completed projects did not contain completed contractor evaluations, indicating that project managers may not always submit the forms and do not always submit them promptly. The JOC program's policies and procedures state that the project manager is to complete a Contractor Evaluation Form and submit it to the JOC program manager during the project's close-out phase. However, of the files for the 22 completed projects, 6 (27 percent) did not contain evaluation forms.

Proper evaluation of contractor performance provides the department with valuable information that can inform future contract award decisions and oversight practices with the contractor. In contrast, lack of proper feedback inhibits the JOC program manager's ability to monitor

contractors and, when appropriate, terminate their contracts. Consequently, the JOC program manager may continue assigning JOC task order projects to a contractor that is doing inferior work or award a new JOC to a poorly performing contractor.

**Recommendation**

19. The San Francisco Public Utilities Commission should ensure that project managers evaluate contractors for each JOC task order project in a timely manner.

## APPENDIX: DEPARTMENT RESPONSE



San Francisco  
Water Power Sewer  
Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor  
San Francisco, CA 94102  
T 415.554.3155  
F 415.554.3161  
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December 17, 2012

Tonia Lediju, Audit Director  
Office of the Controller, City Services Auditor Division  
City Hall, Room 476  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Subject: Management's Responses to The Job Order Contract Program Lacks Sufficient Oversight to Ensure Program Effectiveness.

Dear Ms. Lediju,

Thank you for providing us the opportunity to review the results of The Job Order Contract Program Lacks Sufficient Oversight to Ensure Program Effectiveness report, prepared by the Controller's Office, City Services Auditor.

Attached for your review and consideration are SFPUC Management's responses to the recommendations detailed in the audit report.

If you have any questions or need additional information, please do not hesitate to contact me at (415) 554-1600.

Sincerely,

A handwritten signature in black ink, appearing to read "Harlan L. Kelly, Jr.", written over a horizontal line.

Harlan L. Kelly, Jr.  
General Manager

cc: Michael Carlin, Deputy General Manager  
Todd L. Rydstrom, AGM Business Services & Chief Financial Officer  
Jackson Wong, Acting AGM, Infrastructure  
Nancy L. Hom, Director, Assurance & Internal Controls

Edwin M. Lee  
Mayor

Art Torres  
President

Vince Courtney  
Vice President

Ann Moller Caon  
Commissioner

Francesca Viator  
Commissioner

Anson Moran  
Commissioner

Harlan L. Kelly, Jr.  
General Manager



For each recommendation, indicate whether the department concurs, does not concur, or partially concurs. If the department concurs with the recommendation, please indicate the expected implementation date and implementation plan. If the department does not concur or partially concurs, please provide an explanation and an alternate plan of action to address the identified issue.

## AUDIT RECOMMENDATIONS AND RESPONSES

Recommendation	Response
<p>The San Francisco Public Utilities Commission should:</p> <ol style="list-style-type: none"> <li>Develop a policy for the job order contract program specifying the program's intent and providing specific criteria describing the projects that may be authorized. The commission should approve the policy.</li> </ol>	<p>Concur. JOC team will start this discussion with SFPUC Senior Management within the next six months.</p> <p>While the SFPUC feels that the SF Administrative Code and guidance by the City Attorney have been clear on the intent and usage for job order contracts ("public work maintenance, repair and minor construction projects"), with new leadership at SFPUC, the timing is right to evaluate any additional criteria.</p>
<ol style="list-style-type: none"> <li>Ensure that its JOC program adheres to the policy and criteria established per Recommendation 1 when determining which projects to authorize under JOCs to avoid undermining the program's intent.</li> </ol>	<p>Concur, if in fact, new JOC policies are established.</p> <p>For the major projects cited all required approvals were obtained. The SFPUC will establish procedures to document the reason when it is necessary to exceed the \$400K task order limit. While the audit states that 11 percent felt that JOCs were not always used for maintenance, repair and minor construction projects, CSA does acknowledge that 89% agreed that JOCs were used as intended.</p>

Recommendation	Response
<p>3. Ensure that major projects that are subject to the City's competitive solicitation process are not broken into multiple task orders to fall below the JOC program's dollar threshold.</p>	<p>Concur. The report noted one project for bid splitting. PUC's review of this project included JOC staff questioning the Project Manager as to the reason for the two tasks, and justification was provided as deemed appropriate given the need to complete the demolition portion prior to the rainy season, followed by the actual construction of the pre-fabricated building when the design was completed several months later. Both were limited-scope tasks which, even combined, did not exceed the \$400,000 cap.</p> <p>The SFPUC will further develop internal control procedures to ensure inappropriate bid-splitting does not occur.</p> <p>One cannot foretell whether new work may emerge when a construction site is exposed, as differing site conditions often prompt new scopes of work or new task orders. JOC is currently reviewing two plans to address this issue and anticipates full implementation within three months.</p>
<p>4. Establish for JOC program projects a maximum percentage that non-prepriced task costs can be of total project costs.</p>	<p>Concur to limit Non Pre-Price (NPPs) items.</p>
<p>5. Not approve as JOC task orders projects whose proposed non-prepriced task costs exceed the maximum percentage established.</p>	<p>NPPs are used by the PUC because our work is specialized (dams, tunnels, treatment plants, transmission lines, governors, turbines, force mains, etc.) hence much of our equipment is highly specialized, old or obsolete, or proprietary in nature – it is impossible to have all of our hundreds of parts and equipment pieces specifically priced out in the Construction Task Catalog® (CTC).</p> <p>The SFPUC will work with the Operating Departments to list as much of their equipment/parts so we could include them in new CTCs. If an NPP item is used three times, it is then added to the CTC. Construction Management Bureau (CMB) shall explore Non Pre-Price options, such as creating an Exception Book for SFPUC items. JOC intends to initiate discussions with PUC client departments within the next six months.</p>

Recommendation	Response
<p>6. The San Francisco Public Utilities Commission should ensure that the JOC program does not authorize task orders for projects funded with money from the federal government under JOCs that conflict with federal funding requirements.</p>	<p>Concur, and Federal JOC templates were subsequently created for six Federal contracts. No more State or Federal grant funds will be used through the JOC program unless the specific JOC contract allows it. This policy is already implemented.</p> <p>The issue began with one project manager who obtained EPA authority to use existing JOCs to install water quality monitoring devices, and the funds would have been lost if not expended by deadline, not realizing until afterwards the special requirements for Federal funds.</p>
<p>7. Develop procedures for assigning JOC projects to contractors.</p>	<p>Concur. Will have draft procedures within 3 months.</p> <p>Currently, an existing process is already in place for assignments which includes: licensing requirements, match to JOC contractor expertise, availability of contractor against other assigned work, geographic location of work, compatibility between Project Manager (PM) and contractor. Even after this initial assessment, the JOC Manager often has to speak to the PM for more details, and phone calls and emails may ensue before agreement is reached on the appropriate contractor.</p> <p>SFPUC's JOC training manual states that the JOC Manager "reviews and approves JOC initiation request from PM and assesses if JOC is the appropriate contracting vehicle, and then assigns JOC contractor after consultation with contractor." Agree to develop written documented procedures of this current process for assigning JOC projects.</p>
<p>8. Retain documentation on how the contractor for each JOC task order project was selected.</p>	<p>Concur. Will retain such documentation once it is developed.</p>

Recommendation	Response
<p>9. Comply with the Administrative Code by obtaining certification of funding from the Office of the Controller before permitting the contractor to begin work, either unofficially or with an official notice to proceed.</p>	<p>Concur, unless extenuating circumstances require otherwise. SFPUC has consulted with the City Attorney's Office about the Notice to Proceed (NTP) issue because JOCs are different from regular construction contracts in that:</p> <ul style="list-style-type: none"> <li>• The JOC master contracts are already certified by the Controller's Office before any task orders can be issued,</li> <li>• The performance and payments bonds are already in place for the entire contract and covers any task orders issued under the master, and</li> <li>• The insurance is already in place for the entire contract and covers any task orders issued under the master contract.</li> </ul> <p>Therefore, with the conditions above met, and as long as the task order scope of work is complete and the project funding is in place, there is little risk for the contractor to begin if the Project Manager can document the urgency to start work before NTP. There are many compelling reasons to start work prior to NTP, including meeting operational shutdowns, addressing unforeseen/urgent work, doing immediate fixes for broken components which impact daily operations.</p> <p>The review of this NTP issue with the City Attorney was formalized in a memo which was distributed to all project managers. Unless extenuating circumstances require otherwise, no projects may start until project funds are certified. These extenuating circumstances shall include: 1) operational shutdowns, 2) emergencies, and 3) regulatory permit conditions. The extenuating circumstances shall be documented in a JOC form. Will address this issue with PUC Senior Management within the next six months and seek consensus.</p>

Recommendation	Response
<p>10. Ensure that Contract Administration Bureau staff has access to the PROGEN software, which includes unit cost information to verify invoice prices.</p>	<p>Do not concur. SFPUC believes our two-step control process is adequate to address the validity of task orders and accuracy of invoices.</p>
<p>11. Ensure that Contract Administration Bureau staff verifies unit costs on JOC invoices using cost information in the PROGEN software. This review may consist of spot checking unit costs or selecting the highest value line items or unit costs to verify.</p>	<p>The process in place to ensure accuracy and validation is a two-step process starting with Project Inception review, followed by Project Implementation review. At Project Inception/Initiation, the PM reviews/approves the scope of work and cost proposal derived from the Construction Task Catalog to ensure an accurate lump sum for the task. Then, the JOC software program (Progen) has a verification feature to ensure that the correct prices are matched to each line item used, preventing any manual change by the contractor. At the Project Implementation phase, the Project team (PM, Inspector, RE) confirms whether specific line items were actually used during the course of construction, and invoices are checked through site visits for validation of percentage completion.</p> <p>When the invoice arrives, the JOC office confirms the accuracy of invoice amounts and ensures all proper forms are included (HRC forms, certified payrolls in Elations, etc.); the invoice is then sent to Contract Administration Bureau (CAB, who checks for insurance, FAMIS, et al, and prepares cover sheet) for final processing through Accounting and Controller's Office. Contract Administration Bureau staff do not "verify unit prices"; rather, it is the Project Manager and/or Resident Engineer (RE) who direct-line responsibility for verifying that invoices are accurate and reflective of the Schedule of Values/percent completion.</p>



Recommendation	Response
<p>12. Document and maintain documentation of all decisions related to JOC payments.</p>	<p>Concur.</p> <p>In the one incident cited by the auditors – in which the Supervisor overruled his PM and agreed with the JOC Program Manager – the PM submitted an invoice for payment but inserted a sentence that a document was missing. The JOC office reviewed this and found the document was, in fact, included.</p> <p>In the future, if a PM submits an invoice with comments, PUC will either: 1) return the invoice to the PM to start over, or 2) line out the statement if irrelevant to payment and initial the crossed out section. PMs should not be signing approval of invoices and submitting them for payment if they have not resolved outstanding issues.</p>
<p>13. Establish and implement procedures to ensure that SFPUC engineers or other technically trained employees evaluate the qualifications of potential JOC contractors.</p>	<p>Concur; anticipate full implementation within the next six months.</p> <p>PUC will explore options such a pre-qualification pool for JOC bidders. All JOC specialty contracts are currently reviewed and investigated by the subject matter experts at the PUC. For instance, contracts for Lighting Efficiency JOCs will have contractor references checked by the Power Enterprise; sewer repair will have references checked by the Spot Sewer Repair staff; HVAC Energy Retrofits are checked by Power Enterprise; Electrical contracts for Governors/Turbines/ Exciters are checked by Hetch Hetchy staff. For the more general A or B license contracts which all PUC operations may use, general experience/public work project requirements are inserted in the JOC contracts (i.e., successful completion of 5 public works projects within the past 5 years, each project with a minimum value of \$1,000,000), each reference is called to verify the type, scale, performance and satisfaction level of past projects. The main documents used are 00450 Bidder's Qualifications Statement and 00492 Experience Statement.</p>

Recommendation	Response
<p>14. Place greater weight on qualifications than proposed adjustment factors when selecting JOC contractors.</p>	<p>Concur; will implement a prequalification process as described in #13 above.</p> <p>However, the Admin Code states that "each JOC contract is to be advertised for competitive bids in accordance with the procedures set forth in this Chapter and awarded to the responsible bidder who submits the lowest responsive bid." If the City is to change the JOC bid process to best qualifications instead of low bid (as recommended by CSA), this would require a change in California Public Contracting Code as well as San Francisco's Administrative Code; furthermore such a subjective criteria could result in bid protests for practically every JOC bid issued. CSA depicts a graph showing that JOC contractor's adjustment factors have steadily decreased since 2006, but that trend is consistent throughout all construction jobs which have received lower bids as a result of the nationwide recession.</p>
<p>15. Ensure that qualified SFPUC staff inspects all JOC projects.</p>	<p>Concur. Every task order does require a final inspection/sign-off by the Project Manager via the Warranty Form which states the date of acceptance of the job (usually the final job walk) and start of the warranty period. Currently, the JOC office has 3 permanent staff: the JOC Manager, an Account Clerk, and an Inspector (hired in 2010).</p> <p>With the issuance of approximately \$130 million in JOC contracts since inception, resulting in over 650 task orders and with dozens of projects currently in construction, future staff inspections will require a different staffing paradigm than that used for regular construction projects which have full time inspectors for each job, along with associated administrative staff. Using the above numbers, during the four years of data used by CSA, JOC staff handles a new task order/supplemental every other day, and each task order requires about 27 items of oversight (see attachment at the end of this document of overall JOC workflow process). On any day, there are</p>

Recommendation	Response
	<p>dozens of JOC task orders in construction, and the current inspector can reasonably visit 3 – 5 sites a day (varies with travel distance). To inspect each construction site, even occasionally, would require more inspectors. SFPUC's Construction Management Bureau has previously requested staff to keep pace with JOC's growth. The Construction Management Bureau will issue a Construction Service RFP to augment City staff with Inspectors, and expects to have the RFP approved within the next nine months. Meanwhile, CMB has helped to fill the inspection gap by assigning existing inspectors/engineering staff in nearby locations to do critical inspections of JOC.</p>
<p>16. Ensure that inspectors complete inspections of JOC projects in a timely manner.</p>	<p>Same as 15 above. While the audit states that 9% of project managers indicated that oversight and inspection of task orders is insufficient, CSA acknowledges that 91% of project managers felt that oversight was sufficient.</p>
<p>17. Retain documentation of each inspection of JOC projects, including records of the date, time, and duration of inspection visits.</p>	<p>Same as 15 above.</p>
<p>18. Consolidate key information on timeliness and quality of work from inspections of completed projects for JOC contractors to inform future assessments of contractor qualifications when considering new JOCs.</p>	<p>Same as 15 above.</p>

Recommendation	Response
<p>19: Ensure that project managers evaluate contractors for each JOC task order project in a timely manner.</p>	<p>Concur. Construction Management Bureau will initiate discussions with Project Management Bureau within three months to complete all contractor evaluations in a timely manner. It is important to note that performance evaluations were instituted by the JOC office in 2010, so task orders issued prior to that would not have performance evaluations. Even after repeated requests to a few PMs to complete the evaluations, the JOC office knows that contractors must be paid within 30 days so JOC cannot hold the invoice pending receipt of the evaluation. The JOC office does not have to wait until the evaluations are completed to know if there are performance issues, since most of the JOC Manager's daily time is absorbed in mediating construction disputes and removing obstacles to completion of work. We feel the effort used to resolve and mediate construction disputes is critical to the success of the JOC projects, and has helped the JOC office to maintain a claim-free program through over 600 task orders.</p>



B05-11  
cpage

Edwin M. Lee, Mayor  
Philip A. Ginsburg, General Manager

December 10, 2012

Ms. Angela Calvillo  
Clerk of the Board  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4689

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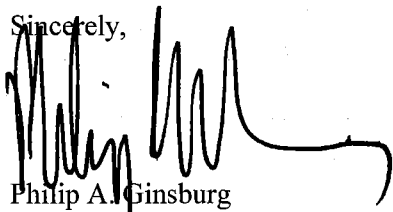
Dear Ms. Calvillo:

Please find attached the Recreation and Park Department's report for the 1<sup>st</sup> quarter of FY12-13 in response to the requirements of Resolution 157-99 Lead Poisoning Prevention. To date, the department has completed assessment and clean-up at **178** sites since program inception in 1999.

The site at which work is currently in progress is Stow Lake Boathouse. The next site up on the list is the Exploratorium.

I hope that you and interested members of the public find that the Department's performance demonstrates our commitment to the health and well being of the children we serve.

Thank you for your support of this important program. Please do not hesitate to contact me with any questions, comments or suggestions you have.

Sincerely,  
  
Philip A. Ginsburg  
General Manager

- Attachments: 1. FY12-13 Implementation Plan, 1<sup>st</sup> Quarter Status Report  
2. Status Report for All Sites

Copy: J. Walseth, DPH, Children's Environmental Health Promotion

## 1<sup>st</sup> Quarter Status Report

Plan Item	Status
<b>I. Hazard Identification and Control</b>	
a) <b>Site Prioritization</b>	<p>Prioritization is based on verified hazard reports (e.g. periodic inspections), documented program use (departmental and day care), estimated participant age, and presence of playgrounds or schoolyards.</p> <p>Prioritization lists by fiscal year are no longer generated. Sites are now done on a rolling basis; as one site is completed, the next site on the list becomes active.</p>
b) <b>Survey</b>	<p>No surveys are currently active or scheduled, as there are several sites pending clean-up.</p>
c) <b>Clean-up</b>	<p>Clean-up is complete at Stow Lake Boathouse and we are working with DPW to close the project.</p>
d) <b>Site Posting and Notification</b>	<p>Each site has been or will be posted advance of any clean-up work so that staff and the public may be notified of the work to be performed.</p>
e) <b>Next site</b>	<p>Priority 170, Exploratorium (and Theater).</p>
<b>II. Facilities Operations and Maintenance</b>	
a) <b>Periodic Inspection</b>	<p>Annual periodic facility inspections are completed by staff. For FY11-12, the completion rate was 49%. Classes on how to complete these inspections continue to be offered throughout the year. We hope to continue skill development of facility inspectors through this class and expect this will improve the completion quality and rate.</p>
b) <b>Housekeeping</b>	<p>Housekeeping as it relates to lead is addressed in the training course for periodic inspections. In addition, administrative and custodial employees are reminded of this hazard and the steps to control it through our Safety Awareness Meeting program (discussed in Staff Training below).</p>

**c) Staff Training**

Under the Department's Injury and Illness Prevention Program, basic lead awareness training is required every two years for all staff.

Lead training among Structural Maintenance staff, which would allow them to perform lead-related work, was completed in 2010 for a select group so that some lead work can be conducted in house. Once a written Operations and Maintenance program has been developed, reviewed and approved, maintenance staff will be authorized to perform this type of work.

Attachment 2. Status Report for RPD Sites



## Status Report for RPD Sites

Sites are listed in order in which they were prioritized for survey. Prioritization is done using an algorithm which takes into account attributes of a site that would likely mean the presence of children from 0-12 years old (e.g. programming serving children, or the presence of a playground).

Sites are surveyed on a rolling basis. "Rolling" means that when one site finishes, the next site on the list will begin. Current sites are listed at the top. Sites not be completed in exact order of priority due to re-tests and other extenuating circumstances.

Re-tests of previous sites are completed every 10 surveys to ensure that past work has sustained an acceptable level of protection.

### ALL SITES

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
139	Stow Lake Boathouse	Golden Gate Park	06-07, 11-12	CLPP survey and clean-up completed in FY06-07. Site revisited in FY11-12 in conjunction with site maintenance work. Clearance for occupancy received and working closing out project financials with DPW.		
170	Exploratorium (and Theater)	3602 Lyon Street		One metal door with loose and peeling paint which needs to be cleaned up, and one water source which needs to be fixed. Working with Property Management to coordinate project work.		
147	Kezar Pavilion	Golden Gate Park	08-09			
171	Candlestick Park	Jamestown Avenue	10-11			
138	Pine Lake Park	Crestlake/Vale/Wawona	07-08	Programmed retest; survey to be completed.	X	
172	Broadway Tunnel West-Mini Park	Leavenworth/Broadway				
173	Broadway Tunnel East-Mini Park	Broadway/Himmelman				
174	Lake Merced Park	Skyline/Lake Merced		Includes Harding Park, Flemming Golf, Boat House and other sites. Note that the Sandy Tatum clubhouse and maintenance facilities were built in 2004 and should be excluded from the survey.		
175	Ina Coolbrith Mini Park	Vallejo/Taylor				
176	Justin Herman/Embarcadero Plaza	Clay/Embarcadero				
177	Billy Goat Hill	Laidley/30th				
178	Coso/Precita-Mini Park	Coso/Precita				
179	Dorothy Erskine Park	Martha/Baden				
180	Duncan Castro Open Space	Diamond Heights				
181	Edgehill Mountain	Edgehill/Kensington Way				
182	Everson/Digby Lots	61 Everson				
183	Fairmount Plaza	Fairmont/Miguel				
184	15th Avenue Steps	Kirkham/15th Avenue				
185	Geneva Avenue Strip	Geneva/Delano				
186	Grand View Park	Moraga/14th Avenue				
187	Hawk Hill	14th Avenue/Rivera				
188	Interior Green Belt	Sutro Forest				
189	Japantown Peace Plaza	Post/Buchanan/Geary				
190	Jefferson Square	Eddy/Gough				
191	Joseph Conrad Mini Park	Columbus/Beach				
192	Kite Hill	Yukon/19th				
193	Lakeview/Ashton Mini Park	Lakeview/Ashton				

## Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
194	Maritime Plaza	Battery/Clay				
195	McLaren Park-Golf Course	2100 Sunnydale Avenue				
196	Mt. Davidson Park	Myra Way				
197	Mt. Olympus	Upper Terrace				
198	Mullen/Peralta-Mini Park	Mullen/Peralta Mini Park				
199	O'Shaughnessey Hollow	O'Shaughnessey Blvd.				
200	Park Presidio Blvd.	Park Presidio Blvd.				
201	Rock Outcropping	Ortega/14th Avenue		Lots 11, 12, 21, 22, 6		
202	South End Rowing/Dolphin Club	Aquatic Park		Land is leased		
203	Russian Hill Open Space	Hyde/Larkin/Chestnut		Hyde Street Reservoir		
204	Saturn Street Steps	Saturn/Ord				
205	Seward Mini Park	Seward/Acme Alley				
206	Twin Peaks	Twin Peaks Blvd.				
207	Fillmore/Turk Mini Park	Fillmore/Turk				
208	Esprit Park	Minnesota Street				
209	Brotherhood/Chester Mini Park	Chester St. near Brotherhood Way				
210	Sue Bierman Park	Market/Steuart				
211	29th/Diamond Open Space	1701 Diamond/29th		Is not on current list of RPD sites (6/2/10).		
212	Berkeley Way Open Space	200 Berkeley Way		Is not on current list of RPD sites (6/2/10).		
213	Diamond/Farnum Open Space	Diamond/Farnum		Is not on current list of RPD sites (6/2/10).		
214	Joost/Baden Mini Park	Joost/N of Baden				
215	Grand View Open Space	Moraga/15th Avenue		Included in Grand View Park		
216	Balboa Natural Area	Great Highway/Balboa		Is not on current list of RPD sites (6/2/10).		
217	Fay Park	Chestnut and Leavenworth				
218	Guy Place Mini Park	Guy Place				
219	Portola Open Space					
220	Roosevelt/Henry Steps					
221	Sunnyside Conservatory	Monterey & Baden				
222	Topaz Open Space	Monterey & Baden				
1	Upper Noe Recreation Center	Day/Sanchez	99-00			
2	Jackson Playground	17th/Carolina	99-00	Abatement completed in FY05-06.	04-05	
3	Mission Rec Center	745 Treat Street	99-00, 02-03	Includes both the Harrison and Treat St. sides.	06-07	X
4	Palega Recreation Center	Felton/Holyoke	99-00			X
5	Eureka Valley Rec Center	Collingwood/18th	99-00			
6	Glen Park	Chenery/Elk	99-00, 00-01	Includes Silver Tree Day Camp		
7	Joe DiMaggio Playground	Lombard/Mason	99-00			
8	Crocker Amazon Playground	Geneva/Moscow	99-00			
9	George Christopher Playground	Diamond Hts/Duncan	99-00			
10	Alice Chalmers Playground	Brunswick/Whittier	99-00			
11	Cayuga Playground	Cayuga/Naglee	99-00			
12	Cabrillo Playground	38th/Cabrillo	99-00			
13	Herz Playground (and Pool)		99-00, 00-01	Includes Coffmann Pool		X
14	Mission Playground	19th & Linda	99-00			

## Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
15	Minnie & Lovie Ward Rec Center	Capital Avenue/Montana	99-00			
16	Sunset Playground	28th Avenue/Lawton	99-00			X
17	West Sunset Playground	39th Avenue/Ortega	99-00			
18	Excelsior Playground	Russia/Madrid	99-00			
19	Helen Wills Playground	Broadway/Larkin	99-00			
20	J. P. Murphy Playground	1960 9th Avenue	99-00			X
21	Argonne Playground	18th/Geary	99-00			
22	Duboce Park	Duboce/Scott	99-00, 01-02	Includes Harvey Milk Center		
23	Golden Gate Park	Panhandle	99-00			
24	Junipero Serra Playground	300 Stonecrest Drive	99-00			
25	Merced Heights Playground	Byxbee/Shields	99-00			
26	Miraloma Playground	Omar/Sequoia Ways	99-00			
27	Silver Terrace Playground	Silver Avenue/Bayshore	99-00			
28	Gene Friend Rec. Center	Folsom/Harriet/6th	99-00			
29	South Sunset Playground	40th Avenue/Vicente	99-00			
30	Potrero Hill Recreation Center	22nd/Arkansas	99-00			
31	Rochambeau Playground	24th Avenue/Lake Street	00-01, 09-10	No abatement needed.		
33	Cow Hollow Playground	Baker/Greenwich	00-01; 09-10			
34	West Portal Playground	Ulloa/Lenox Way	00-01	No abatement needed		
35	Moscone Recreation Center	Chestnut/Buchanan	00-01			
36	Midtown Terrace Playground	Clarendon/Olympia	00-01	No abatement needed		
37	Presidio Heights Playground	Clay/Laurel	00-01			
38	Tenderloin Children's Rec. Ctr.	560/570 Ellis Street	00-01			
39	Hamilton Rec Center	Geary/Steiner	00-01	Note that the Rec. Center part of the facility is new (2010)		
41	Margaret S. Hayward Playground	Laguna, Turk	00-01			
43	Saint Mary's Recreation Center	Murray St./Justin Dr.	00-01			
44	Fulton Playground	27th Avenue/Fulton	00-01			
45	Bernal Heights Recreation Center	Moultrie/Jarboe	00-01	No abatement needed		
46	Douglass Playground	Upper/26th Douglass	00-01			
47	Garfield Square	25th/Harrison	00-01			
48	Woh Hei Yuen	1213 Powell	00-01			
49	Father Alfred E. Boeddeker Park	Ellis/Taylor/Eddy/Jones	00-01			
50	Gilman Playground	Gilman/Griffiths	00-01			X
51	Grattan Playground	Stanyan/Alma	00-01	No abatement needed		
52	Hayes Valley Playground	Hayes/Buchanan	00-01			
53	Youngblood Coleman Playground	Galvez/Mendell	00-01			X
55	Angelo J. Rossi Playground (and Pool)	Arguello Blvd./Anza	00-01			
56	Carl Larsen Park (and Pool)	19th/Wawona	00-01			
57	Sunnyside Playground	Melrose/Edna	00-01	No abatement needed		
58	Balboa Park (and Pool)	Ocean/San Jose	00-01	Includes Matthew Boxer stadium		X
59	James Rolph Jr. Playground	Potrero Ave./Army Street	00-01, 02-03	This was originally supposed to be Rolph-Nicol (Eucalyptus) Park in 02-03, but the consultant surveyed the wrong site.		X
60	Louis Sutter Playground	University/Wayland	00-01			
61	Richmond Playground	18th Avenue/Lake Street	00-01			
62	Joseph Lee Recreation Center	Oakdale/Mendell	00-01			
63	Chinese Recreation Center	Washington/Mason	00-01			

## Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
64	McLaren Park	Visitacion Valley	06-07		05-06	
65	Mission Dolores Park	18th/Dolores	06-07	No abatement needed	05-06	
66	Bernal Heights Park	Bernal Heights Blvd.	01-02	No abatement needed		
67	Cayuga/Lamartine-Mini Park	Cayuga/Lamartine	01-02, 09-10	No abatement needed		
68	Willie Woo Woo Wong PG	Sacramento/Waverly	01-02, 09-10	No abatement needed.		
70	Jospeh L. Alioto Performing Arts Piazza	Grove/Larkin	01-02	No abatement needed		
71	Collis P. Huntington Park	California/Taylor	01-02			
72	South Park	64 South Park Avenue	01-02			
73	Alta Plaza Park	Jackson/Steiner	01-02			
74	Bay View Playground (and Pool)	3rd/Armstrong	01-02	No abatement needed		
75	Chestnut/Kearny Open Space	NW Chestnut/Kearny	01-02	No survey done; structures no longer exist.		
76	Raymond Kimbell Playground	Pierce/Ellis	01-02			
77	Michelangelo Playground	Greenwich/Jones	01-02			
78	Peixotto Playground	Beaver/15th Street	01-02	No abatement needed		
80	States St. Playground	States St./Museum Way	01-02			
81	Adam Rogers Park	Jennings/Oakdale	01-02	No abatement needed		
82	Alamo Square	Hayes/Steiner	01-02			
83	Alioto Mini Park	20th/Capp	01-02	No abatement needed		
84	Beideman/O'Farrell Mini Park	O'Farrell/Beideman	01-02	No abatement needed		
85	Brooks Park	373 Ramsell	01-02	No abatement needed		
86	Buchanan St. Mall	Buchanan betw. Grove & Turk	01-02	No abatement needed		
87	Buena Vista Park	Buena Vista/Haight	01-02			
88	Bush/Broderick Mini Park	Bush/Broderick	01-02			
89	Cottage Row Mini Park	Sutter/E. Fillmore	01-02			
90	Franklin Square	16th/Bryant	01-02			
91	Golden Gate Heights Park	12th Ave./Rockridge Dr.	01-02			
92	Hilltop Park	La Salle/Whitney Yg. Circle	01-02	No abatement needed		
93	Lafayette Park	Washington/Laguna	01-02			
94	Julius Kahn Playground	Jackson/Spruce	01-02			
95	Jose Coronado Playground	21st/Folsom	02-03	As of 10/10/02 as per Capital Program Director, G. Hoy, there are no current plans for renovation		
96	Golden Gate Park (playgrounds)	Fell/Stanyan	05-06			
97	Washington Square	Filbert/Stockton	02-03	No abatement needed. Children's play area and bathrooms to be renovated in 3/04.		
98	McCoppin Square	24th Avenue/Taraval	02-03	As of 10/10/02 as per Gary Hoy, no current plans for renovation		
99	Mountain Lake Park	12th Avenue/Lake Sreet	02-03	As of 10/10/02 as per Gary Hoy, no current plans for renovation		
100	Randolph/Bright Mini Park	Randolph/Bright	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
101	Visitacion Valley Greenway	Campbell Ave./E. Rutland	02-03	No abatement needed. Renovation scheduled 3/04.		

### Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
102	Utah/18th Mini Park	Utah/18th Street	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
103	Palou/Phelps Park	Palou at Phelps	02-03	No abatement needed. Renovation occurred Summer 2003. Marvin Yee was project mgr. No lead survey/abatement rpt in RPD files.		
104	Coleridge Mini Park	Coleridge/Esmeralda	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
105	Lincoln Park (includes Golf Course)	34th Avenue/Clement	02-03	Renovation scheduled 9/04		
106	Little Hollywood Park	Lathrop-Tocoloma	02-03	No abatement needed. Renovation scheduled 9/04		
107	McKinley Square	20th/Vermont	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
109	Noe Valley Courts	24th/Douglass	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
110	Parkside Square	26th Avenue/Vicente	02-03	Children's play area and bathrooms to be renovated in 9/03.		
111	Portsmouth Square	Kearny/Washington	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
112	Potrero del Sol	Potrero/Army	02-03	No abatement needed, renovation scheduled 9/04		
113	Potrero Hill Mini Park	Connecticut/22nd Street	02-03	Renovation scheduled 9/04		
114	Precita Park	Precita/Folsom	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
115	Sgt. John Macaulay Park	Larkin/O'Farrell	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
116	Sigmund Stern Recreation Grove	19th Avenue/Sloat Blvd.	04-05	As of 10/10/02 Capital Program Director indicates no current plans for renovation. Funding expired; will complete in FY04-05		
117	24th/York Mini Park	24th/York/Bryant	02-03	Completed as part of current renovation in December 2002, Renovation scheduled 3/04.		
118	Camp Mather	Mather, Tuolumne County	04-05			X
119	Hyde/Vallejo Mini Park	Hyde/Vallejo	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
120	Juri Commons	San Jose/Guerrero/25th	05-06			

## Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
121	Kelloch Velasco Mini Park	Kelloch/Velasco	02-03	No abatement needed. Children's play area scheduled for renovation on 9/04		
122	Koshland Park	Page/Buchanan	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
123	Head/Brotherhood Mini Park	Head/Brotherwood Way	02-03	No abatement needed. As of 10/10/02 Capital Program Director indicates no current plans for renovation		
124	Walter Haas Playground	Addison/Farnum/Beacon	02-03	Capital Projects to renovate in Spring 2003. Mauer is PM		
125	Holly Park	Holly Circle	02-03	Renovation planned to begin 4/03; Judi Mosqueda from DPW is PM		
126	Page-Laguna-Mini Park	Page/Laguna	04-05	No abatement needed		
127	Golden Gate/Steiner Mini Park	Golden Gate/Steiner		No Facility, benches only		
128	Tank Hill	Clarendon/Twin Peaks	04-05	No abatement needed		
129	Rolph Nicol Playground	Eucalyptus Dr./25th Avenue	04-05	No abatement needed		
130	Golden Gate Park	Carrousel	05-06			
131	Golden Gate Park	Tennis Court	05-06			
132	Washington/Hyde Mini Park	Washington/Hyde	04-05	No abatement needed		
133	Ridgetop Plaza	Whitney Young Circle	05-06	No abatement needed		
134	Golden Gate Park	Beach Chalet	06-07	No abatement needed		
135	Golden Gate Park	Polo Field	06-07			
136	Sharp Park (includes Golf Course)	Pacifica, San Mateo Co.	06-07			
137	Golden Gate Park	Senior Center	06-07			X
140	Golden Gate Park	County Fair Building	06-07	No abatement needed		
141	Golden Gate Park	Sharon Bldg.	07-08			
143	Allyne Park	Gough/Green	06-07	No abatement needed		
144	DuPont Courts	30th Ave./Clement	07-08			
145	Golden Gate Park	Big Rec	07-08			
146	Lower Great Highway	Sloat to Pt. Lobos	07-08			
148	Yacht Harbor and Marina Green	Marina	06-07, 07-08	Includes Yacht Harbor, Gas House Cover, 2 Yacht Clubs and Marina Green		
149	Palace of Fine Arts	3601 Lyon Street	09-10	No abatement needed.		
150	Telegraph Hill/Pioneer Park	Telegraph Hill	09-10	Clean-up responsibility transferred to Capital and Planning for incorporation into larger project at site.		
151	Saint Mary's Square	California Street/Grant	09-10	No abatement needed.		

### Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
152	Union Square	Post/Stockton	09-10	No abatement needed.		
153	Golden Gate Park	Angler's Lodge	07-08			
154	Golden Gate Park	Bandstand	07-08	No abatement needed		
155	Golden Gate Park	Bowling Green	07-08	Retested 4/09; 16 ppb first draw, still in program		X
156	Golden Gate Park	Conservatory	08-09	No abatement needed.		
157	Golden Gate Park	Golf Course	09-10			
158	Golden Gate Park	Kezar Stadium	07-08			X
159	Golden Gate Park	Nursery	09-10	No abatement needed		X
160	Golden Gate Park	Stables	na	Being demolished. Hazard assessment already completed by Capital.		
161	Golden Gate Park	McLaren Lodge	01-02, 02-03	Done out of order. Was in response to release/spill. See File 565.		
162	Corona Heights (and Randall Museum)	16th/Roosevelt	00-01	Randall Museum used to be separate, but in TMA, Randall is part of Corona Heights, so the two were combined 6/10.		
163	Laurel Hill Playground	Euclid & Collins	10-11			
164	Selby/Palou Mini Park	Selby & Palou	10-11	No abatement needed		
165	Prentiss Mini Park	Prentiss/Eugenia	10-11	No abatement needed		
166	Lessing/Sears Mini Park	Lessing/Sears	10-11	No abatement needed		
167	Muriel Leff Mini Park	7th Avenue/Anza	10-11	No abatement needed		
168	10th Avenue/Clement Mini Park	Richmond Library	10-11	No abatement needed		
169	Turk/Hyde Mini Park	Turk & Hyde	10-11	No abatement needed		
<b>New Facilities: These facilities not to be included in CLPP survey as they were built after 1978.</b>						
	Alice Marble Tennis Courts	Greenwich/Hyde		Not owned by RPD. PUC demolished in 2003 and all will be rebuilt.		
	Richmond Rec Center	18th Ave./Lake St./Calif.		New facility		
	Visitacion Valley Playground	Cora/Leland/Raymond		Original building clubhouse and PG demolished in 2001. Facility is new.		
	King Pool	3rd/Armstrong		New facility		
	Patricia's Green in Hayes Valley	Hayes & Octavia		Built in 2005		
	India Basin Shoreline Park	E. Hunters Pt. Blvd.		Built in 2003		
	Parque Ninos Unidos	23rd and Folsom		Built in 2004		
	Victoria Manolo Draves Park	Folsom & Sherman		Built in 2006		
	Aptos Playground	Aptos/Ocean Avenue		Site demolished and rebuilt in 2006		

**BOARD of SUPERVISORS**



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Date: December 31, 2012  
To: Honorable Members, Board of Supervisors  
From: Angela Calvillo, Clerk of the Board  
Subject: Form 700

This is to inform you that the following individual has submitted a Form 700 Statement:

Sean Elsbernd – Supervisor – Leaving  
William Johnston - Legislative Aide – Assuming  
Ahmad El-Najjar - Legislative Aide – Assuming



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**From:** Chapin-Rienzo, Shanda on behalf of Reports, Controller  
**Sent:** Monday, December 17, 2012 11:37 AM  
**To:** Calvillo, Angela; Nevin, Peggy; BOS-Legislative Aides; BOS-Supervisors; Kawa, Steve; Howard, Kate; Falvey, Christine; Elliott, Jason; Campbell, Severin; Newman, Debra; sfdocs@sfpd.info; gmetcalf@spur.org; CON-Media Contact; ggiubbini@sftc.org; CON-EVERYONE; CON-CCSF Dept Heads; CON-Finance Officers  
**Subject:** Issued: Report on Opportunities to Claim and Expand Early Periodic Screening, Diagnosis, and Treatment Services (EPSDT)

The Controller's Office contracted with an expert consultant to develop the following report on best practices and opportunities to claim and expand Early Periodic Screening, Diagnosis, and Treatment services (EPSDT) in San Francisco. EPSDT is the federal program under Medicaid ("Medi-Cal" in California) which provides funding for medically-necessary services to youth under 21 years of age.

The report focuses on opportunities in the city's programs serving foster care youth and estimates \$440,000 in potential EPSDT funding. The consultant provides recommendations on how to expand services to foster care/at-risk youth by claiming eligible costs and capitalizing on programs successfully leveraging EPSDT in other California counties.

This report was completed by CEUS Consulting and is being released after joint review by the city's Human Services Agency (HSA) and the Department of Public Health Community Behavioral Health Services (DPH-CBHS). HSA and DPH-CBHS have agreed to begin implementation planning on EPSDT opportunities in December 2012.

To view the full report, please visit our website at: <http://co.sfgov.org/webreports/details.aspx?id=1520>

This is a send-only email address.

For questions about the report, please contact Mike Wylie at [michael.wylie@sfgov.org](mailto:michael.wylie@sfgov.org) or (415) 554-7570.



## Opportunities to Claim and Expand Early Periodic Screening, Diagnosis, and Treatment Services (EPSDT) - Report Summary

From March to August of 2012 the City Performance Unit of the Controller's Office contracted with CEUS Consulting to report on best practices and opportunities for the expansion of Early Periodic Screening, Diagnosis, and Treatment (EPSDT) in San Francisco. EPSDT is a federal Medicaid program ("Medi-Cal" in California) which provides funding for medically-necessary services (including mental health) to youth under 21 years of age. The following report by CEUS Consulting is being released after joint review by the San Francisco Human Services Agency (HSA) and the Department of Public Health's Community Behavioral Health Services (DPH-CBHS). HSA and DPH-CBHS began implementation planning in December 2012.

This project has focused on potential claiming and expansion of services currently provided by HSA to San Francisco's foster care youth and their families (or youth at risk of entering foster care). The consultant's work included a survey of nine counties and eighteen community-based organizations (CBOs) in California as well as interviews with key informants from HSA and DPH. **CEUS found that EPSDT funding opportunities exist in current HSA programs and recommended how to expand services to foster care/at-risk youth, by claiming eligible EPSDT costs and capitalizing on programs successfully leveraging EPSDT in other California counties.**

### Key Findings

- **HSA could potentially offset up to \$442,000 of current annual costs by claiming EPSDT for existing programs** (the current HSA general fund budget for these programs is \$1.34 million). Projected claiming rates for the programs identified as EPSDT opportunities range from 25% to 41%. These claimable services include enhanced child assessments, parent education and training, and mental health-focused case management. In addition to offsetting current costs, the report identifies opportunities to expand current programs and implement new programs that can be claimed to EPSDT.
- **The settlement of the *Katie A v. Bonta* lawsuit reaffirms that a continuum of services addressing the needs of children at-risk of entering the child welfare system is an entitlement.** The mental health needs for these children must be properly assessed and prioritized by each county.
- **At the same time, uncertainty exists regarding the impact of state realignment on the amount and structure of EPSDT funding in future years.** This will require the close tracking and identification of the financial impact of realignment as claiming opportunities are implemented.
- **Expanding EPSDT utilization for foster care/at-risk youth will require a significant amount of preparation and collaboration,** including providing training, adoption of evidence-based models, cost-sharing and a high level of collaboration between HSA and DPH-CBHS. One-time resources will be required to support implementation planning and training. Ongoing resources will need to be identified to provide program monitoring that ensures EPSDT compliance.

### Controller's Office Recommended Next Steps

#### Phase 1: Implementation Planning

- **Working group.** Continue the joint working group between HSA and DPH-CBHS to implement EPSDT opportunities.
- **Controller's Office assistance.** The Controller's Office City Performance Unit is available to provide project management assistance for implementation planning.

(continued)

- **Identify pilot project.** Identify services from the CEUS report recommendations to start a pilot project for EPSDT expansion in FY 2012-13. Key criteria should be the estimated cost benefit and provider/CBO readiness including Medi-Cal certification. HSA and DPH-CHBS have agreed on the strategy of providing direct technical assistance and capacity building to pilot providers on EPSDT.
- **Katie A settlement planning.** Efforts to expand EPSDT will come at the same time as the state is implementing this settlement agreement regarding related clients and services. Planning should start to prepare for *Katie A* implementation in San Francisco, beginning with facilitated discussions between HSA, DPH-CBHS, and providers on how to best provide these services.
- **Develop MOU.** Begin development of a Memorandum of Understanding (MOU) between HSA and DPH-CBHS for the pilot project, to also serve as the basis for further collaboration on EPSDT expansion and *Katie A* implementation. The MOU should articulate shared HSA and DPH goals, roles, responsibilities, and terms of cost-sharing between the agencies.
- **Support and coordination.** Plan the training, monitoring, and other support required for the pilot. Coordinate EPSDT pilot planning with other assessments of the children's mental health system conducted by DPH-CBHS.

## Phase 2: Implementation

- **Pilot project contract.** Negotiate and implement a contract agreement (or amendment) with the necessary providers to deliver services per the planning phase and EPSDT requirements.
- **Technical assistance.** Contract with a subject expert to (1) provide technical assistance and capacity building to pilot project organizations on EPSDT utilization, (2) develop training materials, and (3) create other documentation needed to support Medi-Cal certification required by EPSDT.
- **Training.** Provide the necessary training to provider staff on evidence-based practices and claimable activities.
- **Finalize MOU.** Finalize and gain approval of the HSA-DPH MOU to collaborate on EPSDT expansion and claiming.
- **Support and coordination.** Implement the planned monitoring and support for the EPSDT pilot. Coordinate the pilot implementation and additional EPSDT expansion efforts with *Katie A* settlement implementation.

**EPSDT Expansion Report  
For the City and County of San Francisco  
By Lisa Scott-Lee, CEUS Consulting  
Final Report August 2012**

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## Executive Summary

### 1.0 Introduction

In March 2012 Consulting, Educational Units and Seminars (CEUS) was contracted as an independent consulting firm to conduct an analysis and review of the City and County of San Francisco's (CCSF) current business practices in the delivery of Specialty Mental Health Services to its county's Medi-Cal beneficiaries. This report represents a first phase of information gathering and analysis to identify EPSDT opportunities. A second phase would collect additional needed data, identify next steps, and implement findings from phase one. For the complete list of project objectives of this consultation contract, see "Project Overview" in Section II.

The following is a summary of the survey conducted by CEUS regarding current Early and Periodic Screening Diagnosis and Treatment ("EPSDT") program expansion and the potential impact of the Katie A v. Bontá settlement. The same survey was used and sent to several California counties, to community based organizations, and to key internal informants. Data was returned via electronic surveys and/or by conducting interviews.

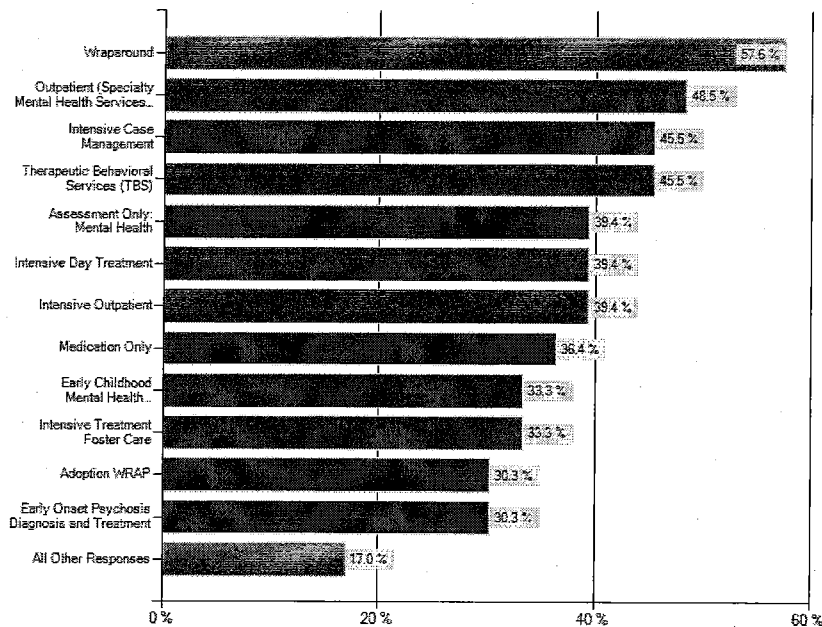
### 2.0 County Survey Findings

The counties that responded to the survey include:

San Francisco, Los Angeles, Alameda, Santa Clara, Sacramento, Fresno, Placer, Nevada, and San Mateo. San Luis Obispo indicated they would participate, but have not responded to date.

1. The programs most commonly claimed to EPSDT by county respondents were "Wraparound," "Outpatient (Specialty Mental Health Services)," "Intensive Outpatient Services," followed by "Therapeutic Behavioral Services (TBS)" and "Assessment Only, Mental Health."

**Chart 1: Prevalence of EPSDT Claiming Among Respondents by Program**



Other services identified by counties and community based organizations (CBOs) are listed below. See the Program Glossary List in the Appendices for additional descriptions. Programs in *italics* are currently offered in San Francisco and funded by EPSDT to some degree.

- *AIIM Higher*, Assessment planning and linkage for probation-involved youth (SFDPH)
  - **AB 2994**, Needs assessments for child abuse services (Los Angeles County)
  - *Case Management in Acute Psychiatric Hospitals*, to assist in placement within 30 days of discharge in eligible inpatient settings (Los Angeles County)
  - **Flexible Integrated Treatment**, to allow expanded funding for more intensive services with a singular agency promoting continuity of care and stability (Sacramento County)
  - **Functional Family Therapy**, family-based prevention and intervention model (Fresno County)
  - *Level 14 Placement Assessments*, to determine appropriate level of care (Fresno County)
  - *Multidisciplinary Assessment Team*, collaborative, immediate and comprehensive assessment to ensure appropriate services and child/family needs are met (Los Angeles County)
  - **Nurturing Parent Program**, to assess family/child needs and provide parenting education to overcome disabilities and obstacles and promote growth (Sierra Forever Families, serving Nevada, Placer & Sacramento Counties)
  - **Prevention and Early Intervention** to reduce risk and address stressors, building on protective factors and skills to promote cognitive, social and emotional development (Los Angeles County)
  - **Field Capable Clinical Services**, to provide specialized mental health services and work with community partners in building supportive community relationships for clients served (Los Angeles County)
  - **Supportive and Therapeutic Options Program**, focus on prevention of children entering and re-entering foster care placement (Los Angeles County and Sacramento County)
  - *Juvenile Justice Crime Prevention Act*, addressing placement for post-adjudicated youth who meet medical necessity for EPSDT (Los Angeles County)
  - **3-5-7 Model**, provided by Sierra Forever Families, educating families on how to assist children and youth in grieving, developing personal identity and promoting external relationships (Nevada, Placer, and Sacramento Counties)
  - **SafeCare**<sup>®</sup>, applying an evidence-based practice for the treatment and prevention of child abuse and neglect (Santa Clara County)
2. In terms of the ability to successfully “draw-down” on EPSDT-funding, California counties reported the greatest success in conducting “Assessment Only” services, ranging from 70% to 100% draw-down.
  3. EPSDT funds have successfully augmented or replaced Child Welfare funds for Assessment, Adoption Assistance Program WRAP (AAP), Family Resource Centers, Intensive Case Management, and Parent Education programs.
  4. Counties have used EPSDT to offset General Fund costs for the following programs or activities:
    - *Assessments* (both Co-occurring and Assessment Only: Mental Health)
    - *Family Resource Centers (FRC)*
    - *Group Home, Day Rehab/Day Intensive*
    - **SafeCare**<sup>®</sup>



- *School Partnership programs*
  - *Parent Education*
  - *Therapeutic Visitation*
  - *Wraparound*
5. Other funding that was successfully augmented or leveraged with EPSDT includes but is not limited to the following:
- First 5 funding (for “Triple P®” parenting program)
  - Office of Child Abuse Prevention funding (for Triple P® and Supervised Visitation)
  - SB 163 (for *Intensive Case Management and Adoption WRAP*)
6. Three external county respondents (Fresno, San Mateo and Los Angeles) indicated that they have developed Memorandums of Understanding (MOUs) to govern the EPSDT funding relationship between their county social service and mental health departments. All of the surveyed counties reported that the department managing the EPSDT-funded contract (typically their Behavioral Health department) assumes full responsibility and risk when a provider overspends its contract or disallowances/recoupment of EPSDT funds are identified as the result of an audit. Copies of these MOUs have been requested on behalf of CCSF.
7. In regards to innovative funding, one provider noted that EPSDT funding resulted in an increase of mental health services at their Family Resource Centers (FRC). Additionally, the Triple P® parenting program was reported to have very good outcomes since its implementation in two Bay Area counties. In those counties, behavioral health and social services were able to successfully integrate EPSDT claiming, off-setting the cost to their General Fund.

### 3.0 Opportunities for EPSDT Expansion

CEUS estimates that the San Francisco Human Services Agency (HSA) could potentially offset up to \$442,283 of current program costs by claiming to EPSDT. See below for more detail. These estimates rely on the critical preparation and training of providers and other key implementation assumptions (see notes under Potential Drawdown):

Table 15: Opportunities for EPSDT Expansion					
Program	Activity	Current Budget		Potential Drawdown (%)	Potential Claiming
		HSA Total Budget	HSA General Fund Budget		
Intensive Therapeutic Foster Care (using Triple P® or similar Evidence Based Programming (EBP) module)	<ul style="list-style-type: none"> <li>• Assessment</li> <li>• Parent /Significant Support person(s) Education (Skill building, focus on minor client’s behavioral health needs), Rehab</li> <li>• Family Therapy</li> <li>• Mental Health Focus Case Management</li> </ul>	\$0	\$0	Dependent on use of Child and Adolescent Needs and Strengths (CANS) and selection of an Evidence-Based Program (EBP) intervention. Example used for illustration is Triple P®. Requires strict adherence to Triple P® Module, up to 82% of services can be claimed when providing a mental health service. No claimable services for “passive observational” role without active intervention. Recommend no more than 50% of service activity claimed, thus recommend a rate of 41% in claiming potential for purposes of budgeting.	TBD

Table B-3 Opportunities for EBP/EBP Expansion (cont'd)

Program	Activity	Current Budget		Potential Drawdown (%)	Potential Claiming
		HSA Total Budget	HSA General Fund Budget		
Child Abuse Prevention Center	<ul style="list-style-type: none"> <li>Assessment</li> <li>Parent /Significant Support person(s) Education (Skill building, focus on minor client's behavioral health needs), Rehab</li> <li>Family Therapy</li> <li>Mental Health Focus Case Management</li> </ul>	\$194,433	\$194,433	Dependent on use of Child and Adolescent Needs and Strengths (CANS) and selection of Evidence-Based Program intervention. Example used for illustration is Triple P®. Requires strict adherence to Triple P® Module, up to 82% of services can be claimed when providing a mental health service. No claimable services for "passive observational" role without active intervention. Recommend no more than 50% of service activity claimed (i.e., rate of 41% claiming potential for purposes of budgeting)	\$79,718
Enhanced Visitation @ Family Resource Center (using Triple P® or similar EBP module)	<ul style="list-style-type: none"> <li>Assessment</li> <li>Parent Education (Skill building), Rehab</li> <li>Family Therapy</li> <li>Mental Health Focus Case Management</li> </ul>	\$473,779	\$400,850	Dependent on use of Child and Adolescent Needs and Strengths (CANS) and selection of Evidence-Based Program intervention. Example used for illustration is Triple P®. Requires strict adherence to Triple P® Module, up to 82% of services can be claimed when providing a mental health service. No claimable services for "passive observational" role without active intervention. Recommend no more than 50% of service activity claimed (i.e., rate of 41% claiming potential for purposes of budgeting)	\$164,349
Kinship	<ul style="list-style-type: none"> <li>Assessment</li> <li>Caregiver Education (Skill building), Rehab</li> <li>Family Therapy</li> <li>Mental Health focus Case Management</li> </ul>	\$230,000	\$76,814	Dependent on use of Child and Adolescent Needs and Strengths (CANS) and selection of Evidence - Based Program intervention. Example used for illustration is Triple P®. Requires strict adherence to Triple P® Module, up to 82% of services can be claimed when providing a mental health service. No claimable services for "passive observational" role without active intervention. Recommend no more than 50% of service activity claimed (i.e., 41% claim potential for purposes of budgeting)	\$31,494

Table: Opportunities for HSA Expansion (cont'd)					
Program	Activity	Current Budget		Potential Drawdown (%)	Potential Claiming
		HSA Total Budget	HSA General Fund Budget		
Non-Emergency Medical Transportation	Non-Reimbursable	\$0	\$0	Non-Reimbursable	NA
SafeCare®*	<ul style="list-style-type: none"> <li>Assessment</li> <li>Parent Education (Skill building), Rehab</li> <li>Mental Health Focus Case Management</li> </ul>	\$850,000	\$666,894	If using SafeCare® Module, claiming limited to Mental Health focused activities. Recommend no more than 25% of service claimed.	\$166,724
Wraparound Services	<ul style="list-style-type: none"> <li>Assessment</li> <li>Parent Education (Skill building), Rehab</li> <li>Family Therapy</li> <li>Mental Health Focus Case Management</li> </ul>	\$321,148	\$321,148	<p>All Specialty Mental Health Services may be claimed if service is directed to child/youth.</p> <p>Current \$321,148 is a HSA work order to SFDPH for SB 163 Wraparound and related services and already being used as EPSDT match. Amount for potential expansion to be determined (TBD).</p>	TBD
Safe Children/Healthy Families	<ul style="list-style-type: none"> <li>Assessment</li> <li>Parent Education (Skill building), Rehab</li> <li>Family Therapy</li> <li>Mental Health Case Management</li> </ul>	\$ 604,221	\$185,000	<p>All Specialty Mental Health Services may be claimed if service is directed to child/youth.</p> <p>Contract is currently out for RFP. Actual GF share could differ depending on contractor's ability to leverage Title XIX funds</p>	TBD
<b>Total</b>					<b>\$442,285</b>

<sup>1</sup> -- Budget figures are for FY2011-12, provided by HSA.

\* -- Note: SafeCare® Model has limited claiming for Mental Health Services, whereas Triple P® has more applicable modules that address behavioral health interventions.

#### **4.0 Community Based Organization Survey Findings**

CEUS received surveys from 18 CBOs throughout the state, including five who contract with CCSF. CBOs report they are ready to expand EPSDT services as needed but expressed concerns about the following:

- A lack of guidance and risk mitigation by county contract monitoring staff.
- Stable, sustainable funding is needed. Providers do not want to risk “ramping up” prematurely to increase program capacity without some assurance by Counties (including CCSF) that their efforts are warranted.
- Timely reporting and documentation is difficult due to issues with Electronic Health Records (EHR). This could increase the risk of EPSDT disallowances. (It should be noted, however, that the adoption and integration of EHR’s is both a state and federal requirement and addresses the need for accountability and outcome driven services).
- All five providers who work with CCSF indicated, if provided appropriate funding and guidance, they do have the capacity to “ramp up” services in light of the Katie A. settlement.

#### **5.0 Internal Findings**

CEUS interviewed seven key informants from HSA and the San Francisco Department of Public Health (SFDPH) regarding EPSDT and its potential expansion.

- SFDPH representatives voiced concern over bearing all of the risk in an expansion, and expanding to small CBOs who lack the capacity to sustain EPSDT services.
- Representatives from both departments were eager to expand EPSDT services and willing to discuss approaches to sharing and mitigating risk. For example, one HSA representative suggested more frequent fiscal monitoring of service providers as a means of mitigating risk.

#### **6.0 State Developments and Katie A. vs. Bontá Settlement**

- Both providers and counties reported concerns regarding the stability of their funding sources to sustain programming. Recently, the California Mental Health Director’s Association advised counties to anticipate a budgetary short-fall for Realignment and recommended budgeting at the Fiscal Year 2010-11 rate minus 10%. However, the Undersecretary of the California Health and Human Services Agency (CHHS) assured that the EPSDT base includes full-year funding for both the Katie A. settlement and costs associated with the transition of the Healthy Family Program (see response to Demand Letter, Appendix F).
- A memorandum was released to CBO providers the week of June 11<sup>th</sup> indicating the state will cover EPSDT expansion costs to cover the Katie A. lawsuit settlement agreement; “how” this will be accomplished will be discussed in the ensuing budget and realignment negotiations and trailer bill language.
- The Katie A. settlement will most likely result in an increased emphasis on screening and assessment of children and youth entering foster care. The state and oversighting organizations will be required by the legal settlement to seek evidence of collaboration in both access and coordination of medically necessary services, both in-county and especially for children placed out-of-county of jurisdiction.

## 7.0 Recommendations

Potential EPSDT leveraging opportunities exist with the following suggested areas of focus for capacity building:

### *Expand EPSDT.*

- Increase assessments at the front-end by using an existing evidence-based tool such as the CANS to identify children in need of mental health services that meet medical necessity criteria (per CCR Title 9 §1830.205 and §1830.210)
- Increase the authorization of rehabilitation services that focus less on intensive individual service but rather improve on symptoms specific skill-building and can be provided in group settings (especially with Community Treatment Facility [CTF] closure)
- Capitalize on proven successful and innovative programming that has leveraged EPSDT as a funding source (see list)
- With the changes to Healthy Families lowering the threshold to qualify, it is anticipated more children residing with their families will become eligible for EPSDT. Mental Health services should prepare for the projected increase in more traditional short term services.

### *Share and mitigate risk.*

- Incentivize best practices by supporting training that will enhance program compliance in evidence-based practices, cultural competence, and regulatory documentation compliance.
- Increase collaboration and shared responsibility and risk for EPSDT-funded activities, especially in assessment, training, administration and oversight (quality assurance).
- Prime the county's potential Medi-Cal certified providers in advance of CBHS's RFP cycles, with active guidance and assistance by mentor peer organizations, networking, and a group training process for successful Medi-Cal certification.
- Formalize Memorandums of Understanding between HSA and CBHS to delineate areas of shared responsibilities, shared risk, oversight and collaboration.
- Prepare for the anticipated push for assessment and outcome standardization in the near future (example: CANS)
- It is anticipated that removing barriers to access EPSDT services, both physical (such as addressing clients' transportation needs) and administrative (such as timely authorization of service and expedited provider access privileges to Electronic Health Records), will need to be addressed.

## 8.0 Conclusions

The survey and interview findings of this project show that there are both successes and challenges in the administration and leveraging of EPSDT funding. It is important to note and recognize that the Katie A. settlement reaffirms that a continuum of services addressing the specific needs of children in or at risk of entering the child welfare system is an entitlement and the mental health needs for these children must be assessed and prioritized. Since the state has assigned to county behavioral health agencies the governance of these apportioned realignment dollars, the administration and implementation of EPSDT should allow flexibility and the authority to expand needed mental health services. The findings also suggest that there are potentially untapped programs that exist *IF* counties, including CCSF, have the resources and seek collaboration and coordination with both internal and external stakeholders to provide guidance in contracting, implementing, and overseeing these programs.

Also see Section IV, pages 21-22, for the table summary of opportunities, challenges and benefits identified through this project (Summary of Recommendations/Opportunity Matrix).

## **Project Overview**

The following is the summary of the survey conducted by **C**onsulting, **E**ducational **U**nits and **S**eminars (**CEUS**) regarding current Early and Periodic Screening Diagnosis and Treatment (EPSDT) program expansion for the City and County of San Francisco. The survey included initial analysis of the potential impact of the Katie A v. Bontá settlement. The purpose of the survey and subsequent follow-up interviews was to analyze current practices of EPSDT implementation in the state of California and how other counties have leveraged EPSDT funding to provide mental health care to its Medi-Cal eligible beneficiaries.

### **A. Scope of Project**

**CEUS** was contracted as an independent consulting firm to conduct an initial analysis and review of the City and County of San Francisco's (CCSF) current business practices in the delivery of Specialty Mental Health Services to its county's Medi-Cal beneficiaries. The objectives of this consultation contract were to:

- ✓ Perform a comprehensive examination and accounting of current CCSF EPSDT programs and existing non-EPSDT programs. Examine the potential to draw down, more effectively or efficiently, EPSDT funding by expanding on existing programs or creating new program capacity to include EPSDT as a payor source
- ✓ Query at least six comparative counties who have successfully implemented and claimed EPSDT in blended funding programs between social service and behavioral health departments, and where potential exists for modeling or replicating these "best practice" EPSDT programs in CCSF.
- ✓ Report on the potential impact of recent lawsuits regarding EPSDT and conduct a risk/benefits analysis of pending state realignment funding and EPSDT expansion in CCSF.
- ✓ Provide *best practices* recommendations on how to mitigate CCSF's risk of disallowance or recoupment. Additionally, include suggested correlations on failed attempts to claim EPSDT as a payor with recommendations on successful alternatives

### **B. Process & Methodology**

CEUS representatives met with City and County of San Francisco representatives in determining the scope and breadth of this EPSDT Expansion project. CEUS recommended the use of an on-line survey to solicit responses (both internally and externally) to specific questions regarding the implementation of

EPSDT, current program administration, how risk is shared, and identifying new/innovative EPSDT programming successes and challenges. Following the issuance of this on-line survey, CEUS representatives conducted follow-up phone interviews to clarify responses and obtain additional information, as needed.

The following Counties were identified by CCSF and CEUS to request to participate in this survey and were selected based on one or more of the following criteria:

- Similar in size or region
- Innovative programming
- Medi-Cal managed care counties

The nine counties *italicized* below (including CCSF) have provided responses to date:

- *Alameda*
- Contra Costa
- *Fresno*
- Humboldt
- *Los Angeles*
- *Nevada*
- *Placer*
- *Sacramento*
- *San Francisco*
- San Luis Obispo (pending)
- *San Mateo*
- *Santa Clara*
- Shasta

In addition to counties, a number of Community Based Organizational (CBO) providers were also solicited to participate in this survey to provide their perspective.

The following CBOs were selected to participate in this survey. CBOs were selected based on one or more of the following criteria:

- Innovative programming
- Co-located in one of the counties solicited to participate in survey
- Contracted with the City and County of San Francisco

The 18 providers *italicized* below have provided responses to date:

- *Alternative Family Services*
- Bill Wilson Center
- Casa Pacifica
- Children's Bureau of Southern California
- *Children's Receiving Home of Sacramento*

- *Comprehensive Youth Services*
- Crittenton Child and Family
- David and Margaret Youth and Family Services
- *Edgewood*
- *EMQ/Families First*
- *Family Care Network, Inc.*
- Five Acres
- Fred Finch Children's Home
- *Hathaway-Sycamores*
- Hill Country Health and Wellness Center
- *Instituto Familiar de la Raza*
- JDT Consultants, Inc.
- *Lincoln Children's Center*
- Martin's Achievement Place
- *Northern Valley Catholic Social Services*
- *Rebekah Children's Services*
- Remi Vista, Inc.
- *River Oaks Center for Children*
- Promesa Behavioral Health
- *Sierra Forever Families*
- *Seneca*
- *Stanford Youth Solutions*
- *St. Vincent's*
- Victor Community Support Services
- *YMCA*
- Vista Del Mar Child and Family Services
- Bay Area Youth Centers
- La Clinica de la Raza
- Olive Crest
- OMI Family Resource Center
- Stars Behavioral Health Services
- *Unidas Familias*
- West Coast Children's Clinic
- Western Addition

Responses to the survey were analyzed for content and followed up with questions via telephone contact.

Counties and CBO providers who responded to this survey were promised a copy of the results upon completion of this project.



## **C. Historical Context and Pending Actions**

### **State Department of Mental Health (DMH) Guidance**

Counties are continuing to wait for guidance and direction from the Department in implementing the Katie A. vs. Bontá lawsuit settlement. Since DMH is collapsing into the Department of Health Care Services (DHCS), it is anticipated guidance might be delayed due to assignment changes and governance decisions yet to be made. Most likely, DHCS will continue to contract with the California Institute for Mental Health (CiMH) to help shepherd the protocols and training regarding the settlement.

### **Fiscal Considerations**

Under the 2011 Realignment Act (AB 118), the sharing ratios for medically necessary Medi-Cal mental health services shifted from 50% federal, 45% state and 5% county to 50% federal and 50% county, and specific revenues have been allocated to counties that reflect their increased share of costs. The statute states that it is the intention of the Legislature that new allocation formulas be developed using appropriate data and information for the 2012-13 fiscal year and each year thereafter. Further, the statute states that it is also the intent of the Legislature that sufficient protections be in place to provide ongoing funding and mandate protection for the state and local government.

**Out of County Mental Health Services:** This new funding structure could change the current methods by which counties reimburse each other for medically necessary mental health services provided to children and youth who do not reside in their county of jurisdiction. Counties report that there are drawbacks to all of the current options, ranging from high travel costs in some cases; lack of non-profit provider agencies in certain areas; inefficiencies that stem from having to contract with multiple providers; and need for formal accounting practices to prevent inequities. Recognizing these limitations, the stage is set to develop a treatment system that allows foster children to have equitable access to medically necessary mental health services, and a smoothly operating payment system that reimburses counties and providers at the established Medi-Cal rates for services to foster children regardless of their county of jurisdiction or their county of residence.

As plans are underway to develop new funding structures under Realignment 2012-13 and beyond, there is an opportunity to address the limitations of the current payment structure for out-of-county placements.

The details for Realignment in 2012-13 are under development by the Department of Finance and CHHS and continue to be a focus of the Legislative session since January 2012. The California Mental Health Directors Association (CMHDA) is working with county, administration, and legislative representatives to develop the financial provisions for 2011 Realignment and the transfer of the Medi-Cal Specialty Mental Health programs specified in the California state Medicaid plan and the waiver. The financial provisions will include strategies to assure that reimbursement mechanisms are in place to support statewide access to medically necessary mental health services for all Medi-Cal beneficiaries. In late May of 2012, CMHDA made recommendations for counties to anticipate a Realignment shortfall. CMHDA recommended counties to budget their Realignment to Fiscal Year 2010-11, minus 10%.

## **Out-of-County Mental Health Services Workgroup Recommendations and Next Steps**

The Mental Health Services Workgroup was convened by the CHHS Child Welfare Council to bring stakeholders and subject matter experts together to address potential strategies and provider recommendations addressing the mental health needs of children and youth placed out-of-county. While the longer term budget issues are being deliberated, the Workgroup recommends that the programmatic strategies described above to promote equal access to mental health services and to provide mental health screening of all foster children and mental health assessment for foster children based on the screening should move forward under the 2011 Realignment system and, if successful, continue into 2012-13.

The Workgroup further recommends that the Child Welfare Council closely follow the progress of the Realignment deliberations as they relate to removing barriers to funding medically necessary mental health services for foster children who reside outside their counties of jurisdiction. Finally, the Workgroup recommends that the Departments of Social Services and Health Care Services, in collaboration with the Child Welfare Council's Data Committee, conduct another study to determine the progress made in achieving foster children's equal access to medically necessary mental health services regardless of where they live.

### **Katie A. vs. Bontá Lawsuit**

On Dec. 5, 2011, nine years after the class-action suit was first filed, Federal District Court Judge A. Howard Matz approved an agreement between child and youth advocates and the state of California that will provide Medicaid funded Intensive Care Coordination (ICC) and Intensive Home Based Services (IHBS) for children in foster care or at risk of removal from their families. The agreement specifies that the settlement team will develop and disseminate a Medi-Cal Specialty Mental Health Documentation Manual and determine to what extent activities and/or components of Therapeutic Foster Care (TFC) are covered under the Medicaid Act and amend the state plan to cover TFC services, if necessary. In addition, the agreement calls for a shared management structure, and that practice tools and practice improvement protocols (including training and quality assurance systems) be developed.

Under the terms of this settlement, there exists a potential for creating a significant system change, including improved outcomes for children and families by mental health and child welfare agencies adopting the Core Practice Model as the overarching framework which will guide casework and treatment. Other potential impacts include joint management at the local and state level between Child Welfare Services and Mental/Behavioral Health, joint accountability and quality assurance, family and youth empowerment, blended funding, and maximization of revenues. However, given the current fiscal climate, there is concern that individual counties will not take advantage of this opportunity for system change but will instead continue with "business as usual". Compliance with the Katie A. settlement may hinge on sufficient EPSDT funding.

### **AB12 and AB212 California Fostering Connections After 18**

This new policy enables California to participate in the federal Fostering Connections to Success and the Increasing Adoptions Act of 2008, which are designed to improve the well-being and outcomes for

children in the foster care system. Among other changes, this law extends federal funding for foster care services for non-minors from ages 18-21. The law recognizes that 18 is too young for most youth to be without support. It aims to provide some assistance to foster youth, enabling them to be better prepared for education and employment training opportunities, as well as developing and maintaining important relationships with caring adults. The assistance provided is based on the needs of each individual young adult and is not intended to replace other permanent connections or support networks; rather it is envisioned as an added layer of support to provide a safety net for youth as they transition to adulthood and self-sufficiency.

Counties have responsibility for implementing these services for youth eligible for these services. Many counties have convened local workgroups and are developing local protocols for how youth can access services. They are assigning social workers to “case manage” these youth and help them get the supports they need to navigate their transition to adulthood. Some counties may not have prepared for servicing this “new” population and there may be “non-minors” residing in these counties who do not even know that they are eligible for these services.

### **2011 Realignment and Pending 2012 Realignment**

In California, realignment occurs when the state transfers responsibility and funding for certain programs and services from the state to the counties. The first realignment occurred in 1991; the second began in 2011-12 and is to be amended in 2012-13. Although the rationale for the 2011 realignment is couched in terms of moving “public safety” to counties where it can be most effectively administered, the State’s reasons for realignment were overwhelmingly fiscal: the costs for the realigned programs were moved from the State General Fund to counties to be funded by sales taxes.

Programs Affecting Children and Youth which are Re-aligned:

- Foster Care, Child Welfare Services, Adoptions and Adoption Assistance, Child Abuse Prevention
- Mental Health Managed Care, Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program
- Juvenile and Adult Justice Programs
- Substance Abuse Treatment Programs

The current California budget also eliminates the Departments of Mental Health and Alcohol and Drug Programs and moves the primary responsibilities for statewide “behavioral health” services to the Department of Health Care Services (DHCS).

If inadequately funded, the realignment of programs affecting children and youth could result in the reduction or curtailment of needed services and entitlements to the children and youth in our local communities. After realignment, state departments will have little or no fiscal control over county programs. State level accountability measures may also be reduced or eliminated. It should be noted that EPSDT is considered a mandated program.

The National Center for Youth Law submitted a demand letter in April 2012 challenging the realignment. CHHS responded that they would consult with all stakeholders regarding the final details of realignment, and reaffirmed that realignment will not place “any additional restrictions on eligibility,

coverage, or access to services and care for any federal or state entitlement program,” including EPSDT (see Appendix F for the “Demand” letter and the response by CHHS).

Currently there are limited resources to implement the Katie A. settlement; immediate action is not anticipated anytime soon. In the meantime, many counties have taken other fiscal protective measures such as refusing to pay the dollar match on other counties’ children placed in their county since recent changes in codes now compel the dollar match to come out of the “host” county’s Realignment funds, not the beneficiary’s county of jurisdiction’s Realignment funds.

Other fiscal changes in the new trailer bill language include the requirement that the “full-array” of specialty mental health services must be made available to the client; no longer can a county refuse to provide a medically necessary assessed service simply because the county intentionally left that service off the menu of available services. If medically necessary, the county must either provide the service or authorize the service elsewhere.

All these changes will leave three options for the City and County of San Francisco:

- Either deny the mental health service, since it does not exist in the current Mental Health Plan and risk legal action or,
- Create the mental health service within the city/county and pay out of its own realignment or,
- Develop MOUs with other counties agreeing to reimburse those counties for the cost that landed on their Realignment ledger for placement of the jurisdictional county’s children into the host county’s catchment area.

Most recently, leadership at the California Mental Health Director’s Association (CMHDA) shared with counties that this Fiscal Year’s realignment (sales/use tax/Vehicle License Fee) is projected to come in short statewide. CMHDA has recommended that counties budget at the Fiscal Year 201-11 and subtract an additional 10% to account for the anticipated shortfall.

This projected Realignment short-fall raises grave concerns regarding adequate funding for all programs. Caution is warranted before, “leaping” to conclusions, prior to the finalization of the state budget.

## **Initial Analysis Highlights**

### **A. Internal Findings**

SFDPH and HSA representatives responding to the survey indicated a difference of perspective regarding the proposed expansion of EPSDT services.

Although SFDPH Community Behavioral Health Service (CBHS) representatives were eager to provide expanded services to children and youth, they were hesitant and reluctant to commit to such an endeavor without adequate resources and oversight. Additionally, CBHS staff indicated in the survey and follow-up interviews that CBHS will likely bear the burden of the “risk” and accountability. Currently, CBHS Foster Care Mental Health staff use the CANS on all clients and find this assessment tool to be adequate in the determination of a client’s medical necessity and treatment goals.

CBHS staff shared concerns with expanding services to what was described as “mom and pop” community based organizations (CBOs) that did not have the knowledge and resources to successfully implement full-scale EPSDT services. Furthermore, SFDPH representatives reported that “start-up” programs typically fail to draw down on their contracts the first year or two of direct service delivery, resulting in loss of fiscal reconciliation between the CBO and CCSF.

CBHS staff indicated that it is their observations that smaller CBOs do not have the capacity to sustain EPSDT services in the community, resulting in their “shuttering” their services and having to reshuffle clients to other CBO providers resulting in a disruption in the continuity of care.

CBHS did however indicate a willingness to engage in discussions regarding shared “risk” with HSA for contract administration, oversight and potential shortfalls as a result of the CBO’s projected inability to fully execute their contract.

CBHS fiscal representative, Philip Tse proposed a model for sharing risk and accountability with HSA, with the goal of having both agencies accountable and engaged.

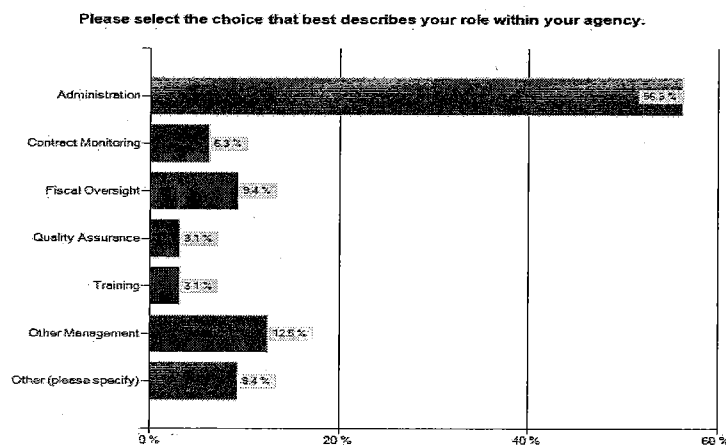
HSA representatives have expressed similar eagerness to increase and expand behavioral health services to the community with a willingness to explore a mutual agreement to share responsibility for contract oversight and assistance. HSA fiscal representative Heather Davis indicated that HSA has the ability to look and see if a CBHS contracted provider has billed retrospectively on a quarterly basis. Program staff report that quarterly meetings are currently held, with the Wrap Around contractor for example, to review available information. It is suggested that closer fiscal monitoring (monthly, rather than quarterly) of the provider’s contractual draw down rates can mitigate CBHS’s risk.

San Mateo, Fresno and Los Angeles Counties have indicated they have MOUs between their social service agencies and behavioral health that have successfully accomplished this collaborative objective, and may be used as MOU models.

**B. External Findings: Counties**

The counties that did respond to the survey indicated they were mostly administrative/managerial staff.

**Chart 2: Roles of Survey Respondents**



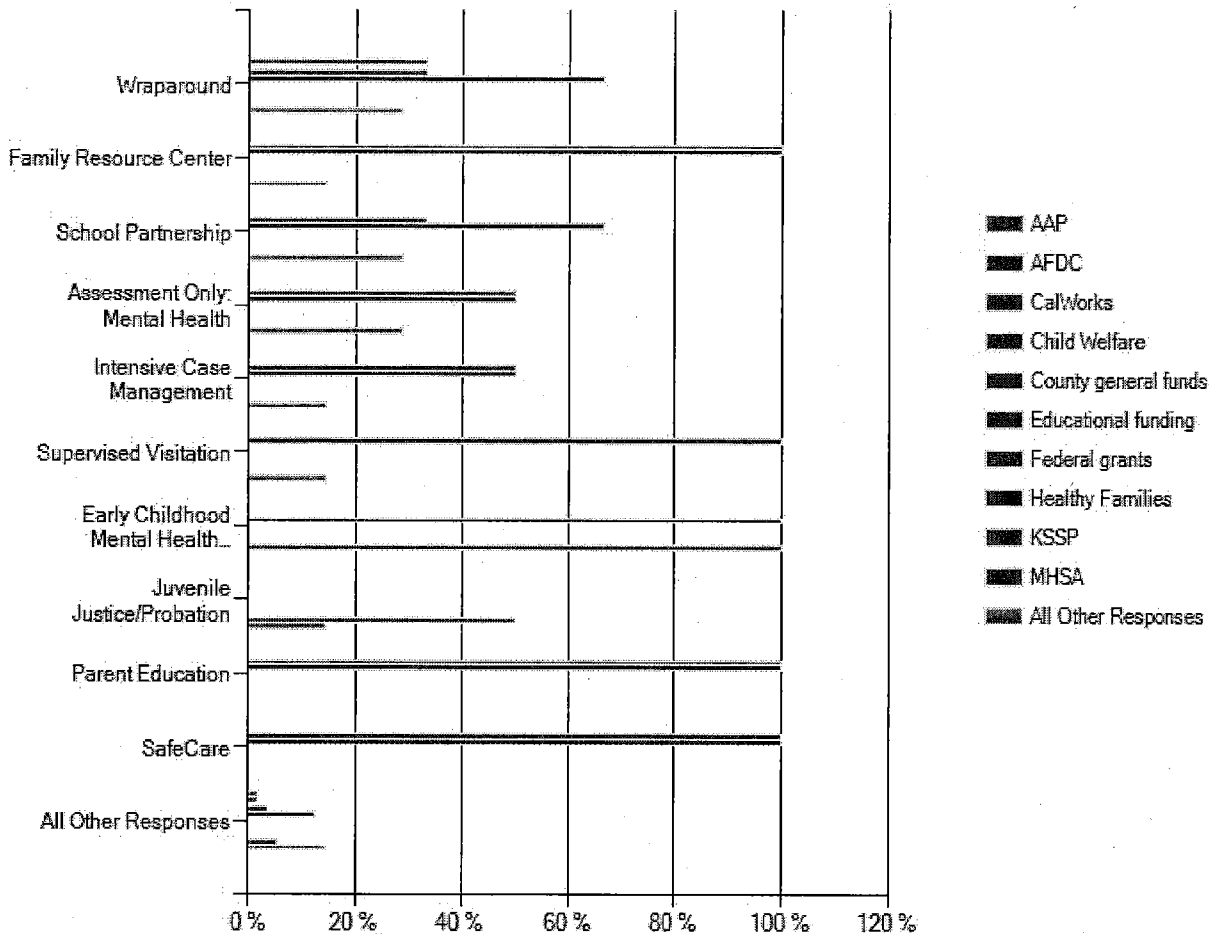
The majority of county respondents agreed that the majority of risk was assumed by the agency administrating the program, which was their behavioral health department.

Although San Mateo County did not respond directly to the survey, the county did indicate, in a summary response, that their Child and Family Services (CFS) program provides Behavioral Health Recovery Services (BHRS) with, “some funding to help with non-funded actual costs and BHRS utilizes EPSDT to fund the direct services.” Furthermore, Sacramento County Behavioral Health Services shared that they provided some EPSDT program services to supplement and enhance their STOP programming. It should be noted, however, that the majority of counties surveyed did not indicate any required “match” from their social service programs to supplement EPSDT services.

In regards to funding, other counties have indicated that EPSDT was successfully leveraged in a number of programs, including Wraparound services, Family Resource Centers, Early Childhood Mental Health and Parent Education. It was evident that EPSDT was successfully leveraged for a number of different programs decreasing the use of General Fund dollars.

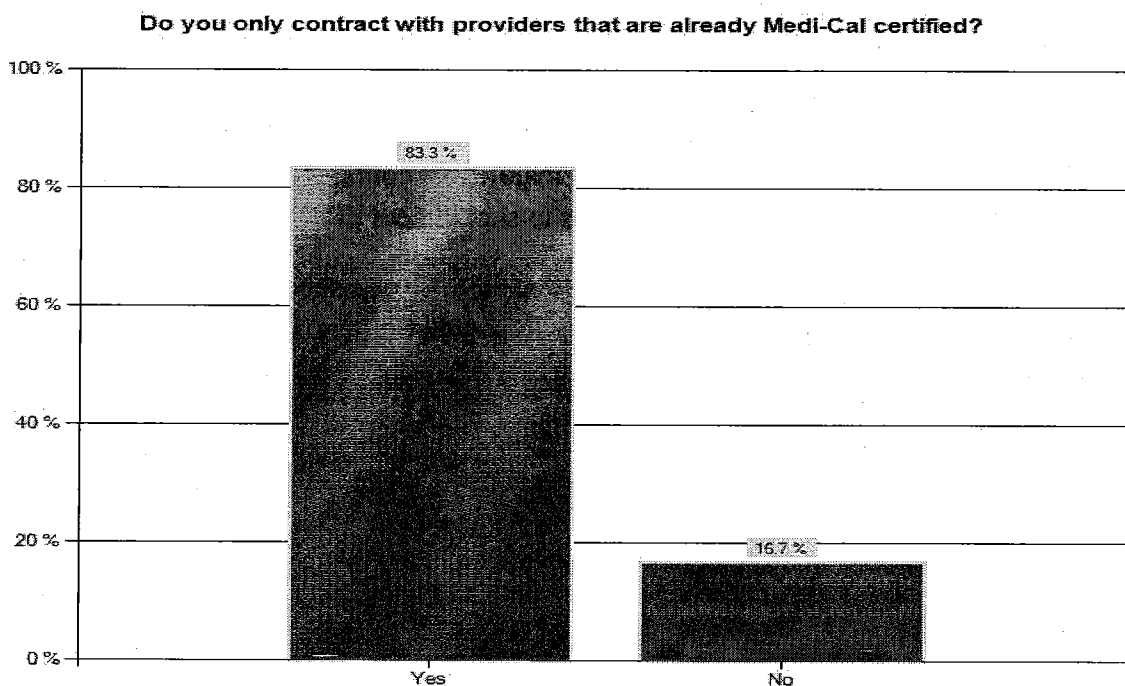
**Chart 3: Funding Sources Replaced or Augmented with EPSDT**

**For each of your EPSDT-funded programs, please indicate your funding sources PRIOR to obtaining EPSDT funding. Check all that apply.**



What was also clearly evident was the overwhelming use of only pre-certified Medi-Cal CBO providers in service delivery.

**Chart 4: Medi-Cal Certification Requirements for EPSDT Contracts**



Since only Medi-Cal certified, non-profit providers are contracted for the delivery of EPSDT services, it is a priority that the provider's bidding for an EPSDT contract are *certified in advance* of any EPSDT RFP. This may include instructional assistance and guidance from CBHS and HSA ensuring the CBO meets Medi-Cal certification criteria.

#### **External Findings: Community Based Organization (CBO) Providers**

Providers universally expressed their concerns of stable sustainable funding. Providers do not want to risk "ramping up" prematurely to increase program capacity without some assurance by counties (including CCSF) that their efforts are warranted. In general providers in California expressed discontent regarding counties' lack of guidance, assistance and collaboration.

CBOs report that issues with the CCSF Electronic Health Record (EHR) system hinder their ability to update records and perform tasks as required (such as completion of the CANS instrument on-line). CBO providers are concerned that the issues with EHR will result in increased risk of disallowances.

Additionally, CBO providers request additional collaborative program compliance and utilization review guidance. This would mean more compliance and documentation training to assure compliance with federal, state and local documentation of service standards.

All of the CBO providers who specifically work with San Francisco (N=5) did point out they are ready to expand EPSDT services as needed and projected. This includes CCSF's three largest vendors

(Edgewood, AFS and Seneca). By their own reporting, they are interested and able to ramp up if they are given the needed time, assured funding, and/or contract flexibility.

### **C. Non-Respondents**

The following counties did not respond during the original timeframe or in subsequent follow-ups by CEUS: San Luis Obispo (pending), San Mateo, Contra Costa, Humboldt, and Shasta. See page 12 for the full list of responding and non-responding counties. When following-up with non-respondents, the excuse provided was in three areas:

1. They received the survey but stopped at questions dealing with the budget because it would take too much effort to seek out the exact information.
2. They were advised by staff at the California Mental Health Directors Association (CMHDA) that they did not have to respond and they chose not to.
3. They never received the survey due to high level of security/IT network firewall.

Lessons learned:

1. Send out both a printed copy along with the on-line E-Survey to account for potential firewalls blocking electronic surveys
2. Provide a “budget range” in response set rather than elicit an absolute number. Also, include statement that respondent can skip the budget questions if too burdensome.
3. Engage CMHDA in all future surveys to solicit their endorsement.

## **Summary of Recommendations**

See matrix below for a summary of EPSDT expansion opportunities, challenges and benefits (Table 2). Recommendations are also described in the Executive Summary (page 10). For estimates of potential drawdown/savings by current HSA programs, see Table 1 in the Executive Summary (pages 6-8).



**Table 2: Summary of EPSDT Expansion Recommendations**

Opportunity	Description	Challenges/Costs	Benefits
<p>1. Expand and <u>utilize existing providers</u> who are already in receipt of EPSDT funding.</p>	<ul style="list-style-type: none"> <li>Promote and endorse expansion of qualified specialty mental health services (such as Assessment services) using EPSDT funding.</li> </ul>	<ul style="list-style-type: none"> <li>Currently contracted EPSDT providers may not have the capacity to expand.</li> <li>CBHS's RFP cycles may limit the ability to expand new &amp; innovative contract opportunities between contracting cycles to potentially new and existing contracted providers.</li> </ul>	<ul style="list-style-type: none"> <li>Allows interim EPSDT program expansion between RFP cycles.</li> <li>Allows robust, experienced EPSDT providers to rapidly expand services with limited start-up delay.</li> <li>Potentially leverage EPSDT funding with General Funds, off-setting program costs.</li> </ul>
<p>2. Strengthen CCSF's investment and commitment to EPSDT by <u>sharing administrative costs</u> for program monitoring and oversight. Include these agreements in an MOU (see below).</p>	<ul style="list-style-type: none"> <li>Equitable sharing of the workload and personnel resources to adequately monitor and implement new and existing EPSDT programs.</li> </ul>	<ul style="list-style-type: none"> <li>Adopting and agreeing to what is a fair and equitable "share-of-cost and resources" formulary.</li> <li>Requires HSA and DPH commitment and lead time to propose and implement new arrangement.</li> </ul>	<ul style="list-style-type: none"> <li>Increased investment and commitment to successful EPSDT program outcomes.</li> <li>Improved resources and monitoring to mitigate audit risk, reducing potential disallowances.</li> </ul>
<p>3. Enhance collaboration and coordination by adopting a <u>Memorandum of Understanding</u> (MOU) between SFDPH and HSA regarding EPSDT services.</p>	<ul style="list-style-type: none"> <li>Development of an MOU that promotes mutual goals for improving coordination and delivery of EPSDT services that meet medical necessity</li> <li>To include the agencies' shared vision, responsibility, accountability, and shared risk for EPSDT expansion and disallowances</li> </ul>	<ul style="list-style-type: none"> <li>Initial resistance to overcome existing work silos</li> <li>Time and costs in developing initial MOU</li> <li>Determining how to enforce MOU agreement.</li> </ul>	<ul style="list-style-type: none"> <li>Increase collaboration and coordination and thus opportunities for expansion</li> <li>Decrease one agency bearing the administrative burden and risk</li> </ul>
<p>4. Promote expansion of innovative, cost effective, <u>evidence-based programming</u> that can offset cost to the General Fund by leveraging EPSDT funding stream.</p>	<ul style="list-style-type: none"> <li>Examine potential to incorporate and support innovative, cost-effective programming (see examples provided).</li> </ul>	<ul style="list-style-type: none"> <li>Initial costs of program implementation including staff training/education and promotion.</li> </ul>	<ul style="list-style-type: none"> <li>Potential decrease in overall service costs, shorter treatment times, and better outcome measures.</li> </ul>

(continued)

**Table 2: Summary of EPSDT Expansion Recommendations (cont'd)**

Opportunity	Description	Challenges/Costs	Benefits
<p>5. Promote and expand assessments for EPSDT medical necessity in 0-5 population, including potential provision of rehabilitative collateral services for this underserved population.</p>	<ul style="list-style-type: none"> <li>Provide and claim for EPSDT Assessment and periodic evaluation for medical necessity.</li> <li>Provide parent-education groups that decrease obstacles for child/youth's resilience and/or recovery.</li> </ul>	<ul style="list-style-type: none"> <li>Training staff and providers on assessment criteria for this age group.</li> <li>Evaluating long-term outcomes to substantiate cost-benefit savings.</li> </ul>	<ul style="list-style-type: none"> <li>Better able to identify early "need" and support the infant/child and their families and caregivers with early intervention and education that reduce overall costs.</li> </ul>
<p>6. Promote and expand rehabilitative interventions for Transition Aged Youth (TAY) that meet EPSDT medical necessity.</p>	<ul style="list-style-type: none"> <li>Promote independent living and rehabilitative skills to TAYs to self-sustain as they transition out of foster care or other supportive living arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>Training staff on strategies to engage this population and network/link with transitional community resources.</li> <li>Engaging youth and their caregivers in investing in the youth's future independence.</li> </ul>	<ul style="list-style-type: none"> <li>Better prepare Transitioned Aged Youth for successful independent living</li> <li>Potentially reduce homelessness and incarceration among this targeted population.</li> </ul>
<p>7. Promote and expand the provision of EPSDT specialty mental health services (where applicable) at CCSF's Family Resource Centers (FRCs) with parent education and intervention program models designed for children/youth.</p>	<ul style="list-style-type: none"> <li>Provide and claim EPSDT for specialty mental health services (such as assessment, collateral and rehabilitative EPSDT services)</li> </ul>	<ul style="list-style-type: none"> <li>Training staff on what can be claimed at FRCs under EPSDT (not all services can be claimed to Medi-Cal).</li> </ul>	<ul style="list-style-type: none"> <li>Support youth, youth's families and caregivers with practical, evidence-based interventions and education.</li> <li>Potentially leverage EPSDT funding with other funding streams, off-setting program costs.</li> </ul>
<p>8. Promote and expand the provision of EPSDT specialty mental health services (where applicable) with Triple P, SafeCare and other similar Evidence Based intervention program models designed for children/youth.</p>	<ul style="list-style-type: none"> <li>Provide and claim EPSDT for specialty mental health services (such as assessment, collateral and rehabilitative EPSDT services)</li> </ul>	<ul style="list-style-type: none"> <li>Training staff on what intervention services can and cannot be claimed under EPSDT (not all services can be claimed to Medi-Cal).</li> </ul>	<ul style="list-style-type: none"> <li>Support youth, youth's families and caregivers with practical, evidence-based interventions and education.</li> <li>Potentially leverage EPSDT funding with other funding streams, off-setting program costs.</li> </ul>

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**From:** Board of Supervisors  
**To:** BOS-Supervisors  
**Subject:** FW: CCSF Investment Report for the month of November 2012  
**Attachments:** CCSF Monthly Investment Report 2012-Nov.pdf

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**From:** Starr, Brian  
**Sent:** Friday, December 14, 2012 1:49 PM  
**To:** Starr, Brian  
**Cc:** Rosenfield, Ben; Board of Supervisors; [cynthia.fong@sfcta.org](mailto:cynthia.fong@sfcta.org); [graziolij@sfusd.edu](mailto:graziolij@sfusd.edu); Bullen, Jessica; Cisneros, Jose; Durgy, Michelle; [sfdocs@sfpl.info](mailto:sfdocs@sfpl.info); Lediju, Tonia; Rydstrom, Todd; Marx, Pauline; Peter Goldstein  
**Subject:** CCSF Investment Report for the month of November 2012

All,  
  
Attached please find the CCSF Investment Report for the month of November 2012.

Thank you,

Brian Starr, CFA  
Investment Analyst  
Office of the Treasurer and Tax Collector  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
City Hall - Room 140  
San Francisco, CA 94102  
415-554-4487 (phone)  
415-554-5660 (fax)

Office of the Treasurer & Tax Collector  
City and County of San Francisco



José Cisneros, Treasurer

Pauline Marx, Chief Assistant Treasurer  
Michelle Durgy, Chief Investment Officer

Investment Report for the month of November 2012

December 14, 2012

The Honorable Edwin M. Lee  
Mayor of San Francisco  
City Hall, Room 200  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4638

The Honorable Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4638

Ladies and Gentlemen,

In accordance with the provisions of California State Government Code Section 53646, we forward this report detailing the City's pooled fund portfolio as of November 30, 2012. These investments provide sufficient liquidity to meet expenditure requirements for the next six months and are in compliance with our statement of investment policy and California Code.

This correspondence and its attachments show the investment activity for the month of November 2012 for the portfolios under the Treasurer's management. All pricing and valuation data is obtained from Interactive Data Corporation.

**CCSF Pooled Fund Investment Earnings Statistics \***

<i>(in \$ million)</i>	Current Month		Prior Month	
	Fiscal YTD	November 2012	Fiscal YTD	October 2012
Average Daily Balance	\$ 4,902	\$ 4,878	\$ 4,907	\$ 4,935
Net Earnings	22.60	4.71	17.89	3.85
Earned Income Yield	1.10%	1.17%	1.08%	0.92%

**CCSF Pooled Fund Statistics \***

<i>(in \$ million)</i>	% of Portfolio	Book Value	Market Value	Wtd. Avg. Coupon	Wtd. Avg. YTM	WAM
<b>Investment Type</b>						
U.S. Treasuries	18.0%	\$ 889	\$ 902	1.12%	0.93%	1,226
Federal Agencies	71.2%	3,536	3,577	1.13%	1.02%	948
TLGP	0.5%	25	25	2.13%	1.79%	21
State & Local Government						
Agency Obligations	1.8%	91	90	2.24%	0.50%	373
Public Time Deposits	0.02%	1	1	0.52%	0.52%	130
Negotiable CDs	5.5%	275	275	0.48%	0.48%	117
Commercial Paper	1.6%	80	80	0.00%	0.50%	130
Medium Term Notes	1.4%	72	71	3.27%	0.55%	147
<b>Totals</b>	<b>100.0%</b>	<b>\$ 4,969</b>	<b>\$ 5,021</b>	<b>1.13%</b>	<b>0.95%</b>	<b>913</b>

In the remainder of this report, we provide additional information and analytics at the security-level and portfolio-level, as recommended by the California Debt and Investment Advisory Commission.

Very truly yours,

**José Cisneros**  
Treasurer

cc: Treasury Oversight Committee: Peter Goldstein, Joe Grazioli, Todd Rydstrom  
Ben Rosenfield, Controller, Office of the Controller  
Tonia Lediju, Internal Audit, Office of the Controller  
Cynthia Fong, Deputy Director for Finance & Administration, San Francisco County Transportation Authority  
Jessica Bullen, Fiscal and Policy Analyst  
San Francisco Public Library

\* Please see last page of this report for non-pooled funds holdings and statistics.

# Portfolio Summary

## Pooled Fund

As of November 30, 2012

Security Type	Par Value	Book Value	Market Value	Market/Book Price	Current % Allocation	Max. Policy Allocation	Compliant?
U.S. Treasuries	\$ 885	\$ 889	902	101.52	17.97%	100%	Yes
Federal Agencies	3,528	3,536	3,577	101.15	71.24%	85%	Yes
TLGP	25	25	25	99.09	0.50%	30%	Yes
<b>State &amp; Local Government</b>							
Agency Obligations	89	91	90	99.18	1.80%	20%	Yes
Public Time Deposits	1	1	1	100.00	0.02%	100%	Yes
Negotiable CDs	275	275	275	99.90	5.47%	30%	Yes
Bankers Acceptances	-	-	-	-	0.00%	40%	Yes
Commercial Paper	80	80	80	100.25	1.59%	25%	Yes
Medium Term Notes	70	72	71	98.61	1.41%	15%	Yes
Repurchase Agreements	-	-	-	-	0.00%	100%	Yes
Reverse Repurchase/	-	-	-	-	-	-	-
Securities Lending Agreements	-	-	-	-	0.00%	\$75mm	Yes
Money Market Funds	-	-	-	-	0.00%	100%	Yes
LAIF	-	-	-	-	0.00%	\$50mm	Yes
<b>TOTAL</b>	<b>\$ 4,952</b>	<b>\$ 4,969</b>	<b>\$ 5,021</b>	<b>101.05</b>	<b>100.00%</b>	<b>-</b>	<b>Yes</b>

The City and County of San Francisco uses the following methodology to determine compliance: Compliance is pre-trade and calculated on both a par and market value basis, using the result with the lowest percentage of the overall portfolio value. Cash balances are included in the City's compliance calculations.

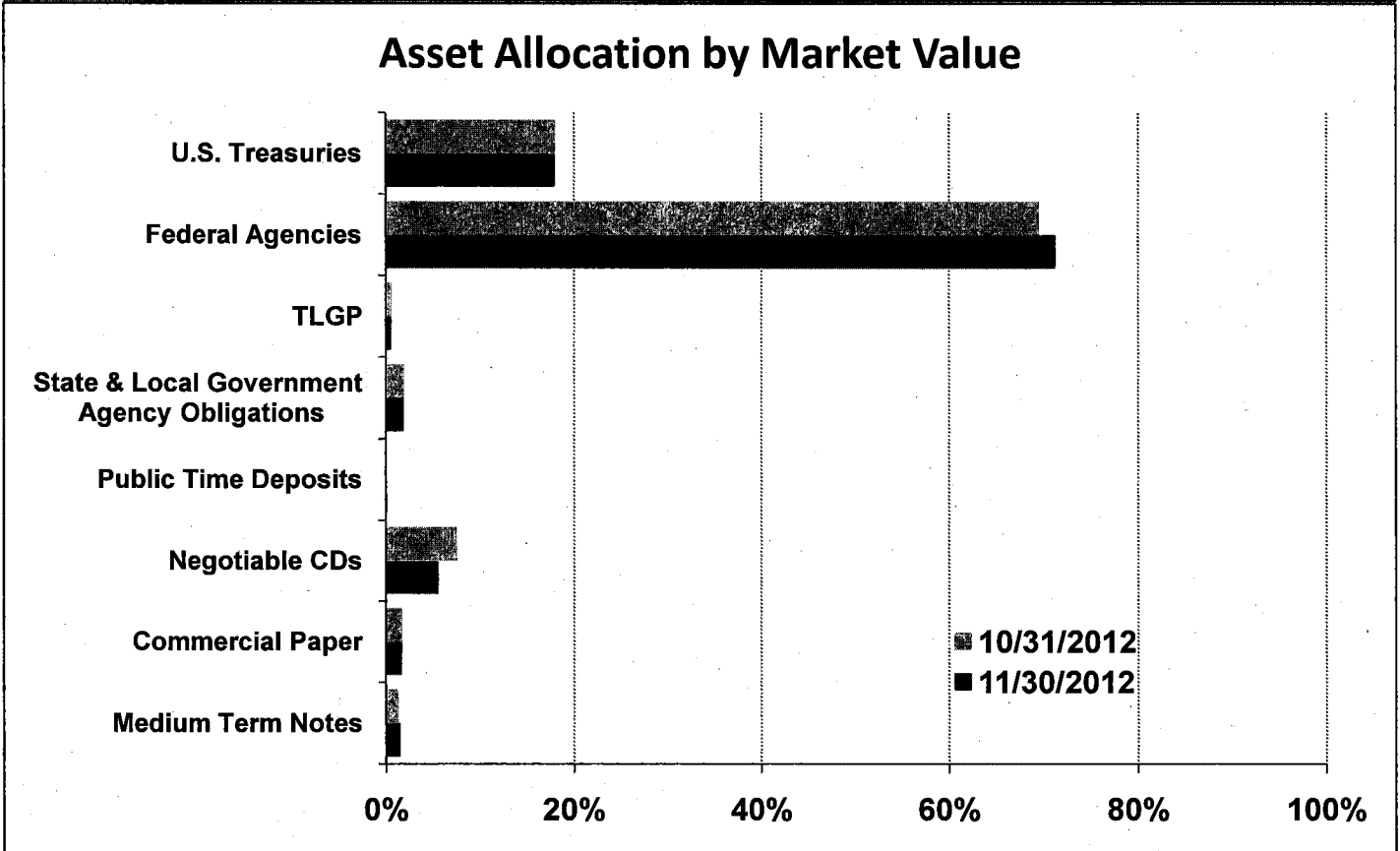
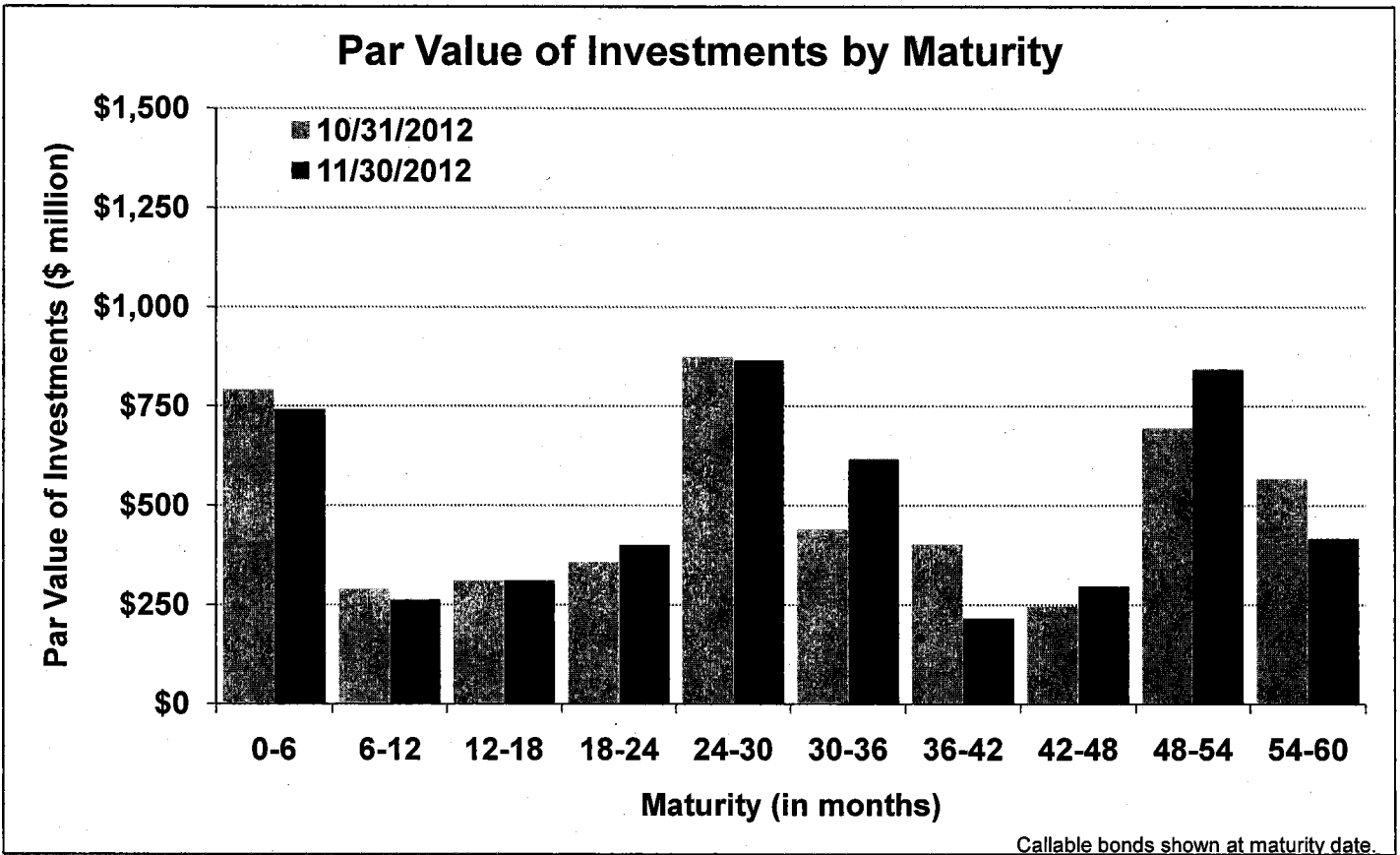
Please note the information in this report does not include cash balances. Due to fluctuations in the market value of the securities held in the Pooled Fund and changes in the City's cash position, the allocation limits may be exceeded on a post-trade compliance basis. In these instances, no compliance violation has occurred, as the policy limits were not exceeded prior to trade execution.

The full Investment Policy can be found at <http://www.sftreasurer.org/>, in the Reports & Plans section of the About menu.

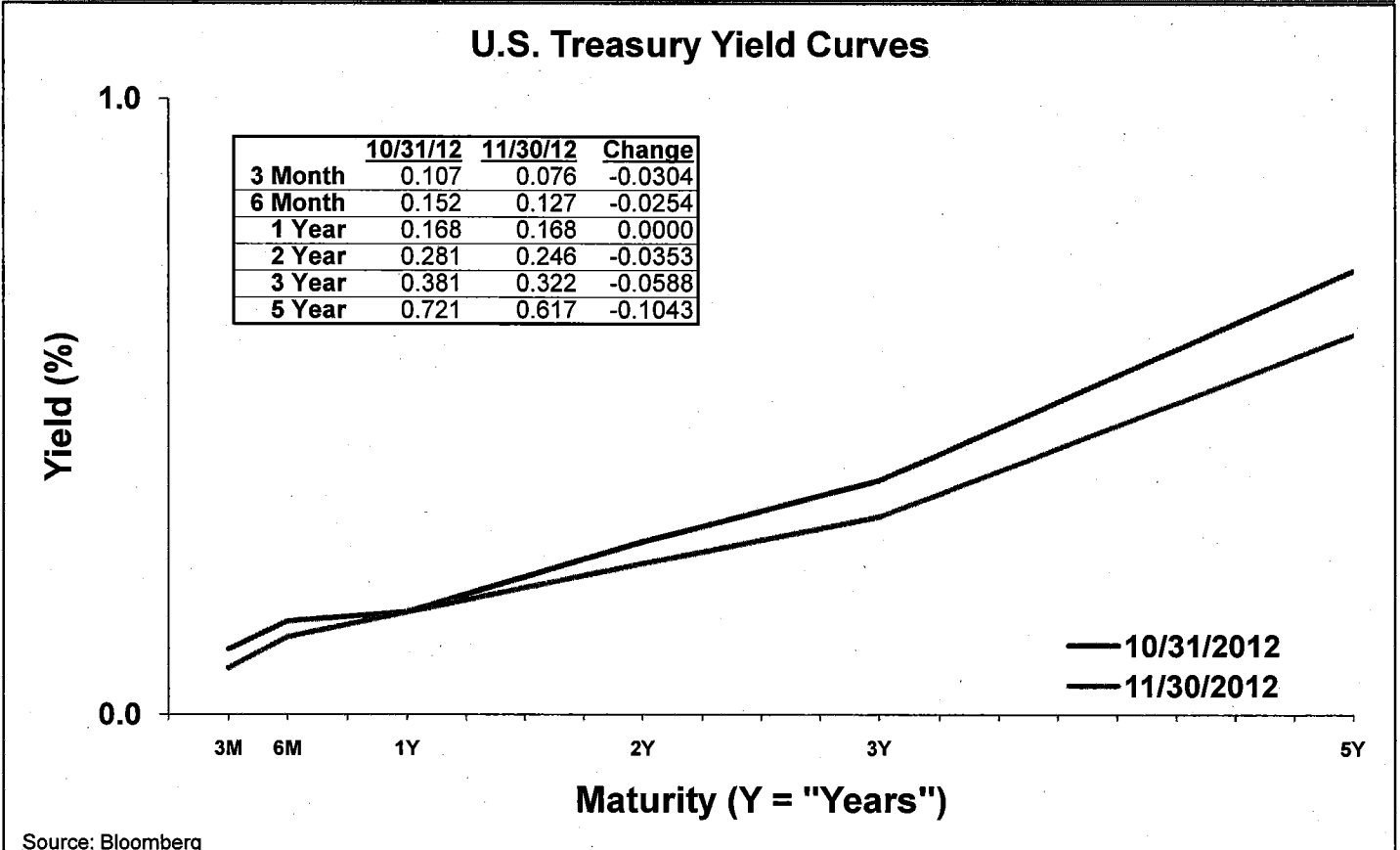
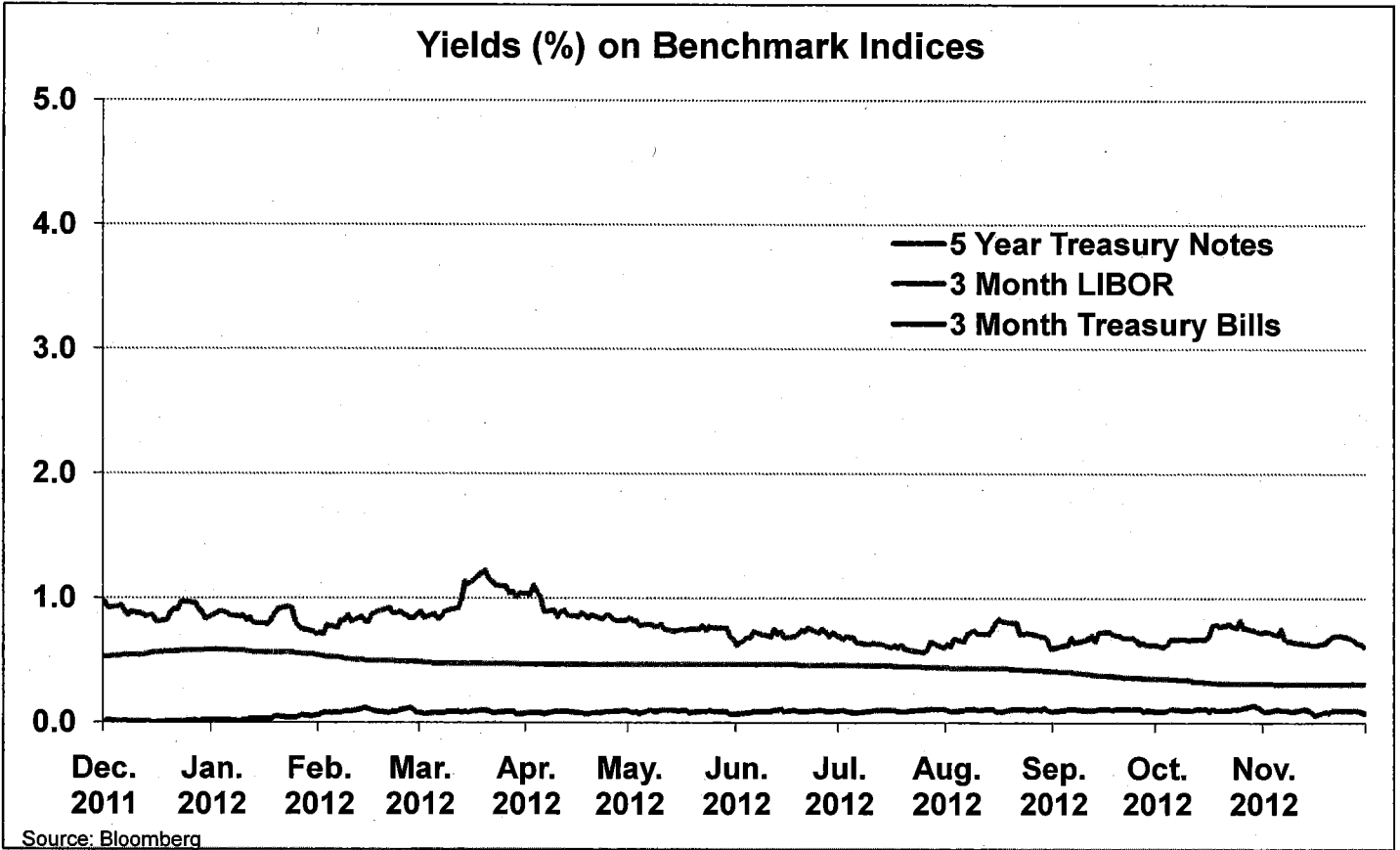
Totals may not add due to rounding.

# Portfolio Analysis

## Pooled Fund



# Yield Curves





# Investment Inventory

## Pooled Fund

As of November 30, 2012

Type of Investment	CUSIP	Issue Name	Settle Date	Maturity Date	Duration	Coupon	Par Value	Book Value	Amortized Book Value	Market Value
U.S. Treasuries	912828QE3	US TSY NT	6/1/11	4/30/13	0.41	0.63	\$ 25,000,000	\$ 25,095,703	\$ 25,020,537	\$ 25,049,750
U.S. Treasuries	912828J78	US TSY NT	6/1/11	11/30/13	1.00	2.00	25,000,000	25,851,563	25,339,506	25,443,750
U.S. Treasuries	912828PQ7	US TSY NT	6/1/11	1/15/14	1.12	1.00	25,000,000	25,226,563	25,096,862	25,217,250
U.S. Treasuries	912828LC2	US TSY NT	6/1/11	7/31/14	1.63	2.63	25,000,000	26,382,813	25,726,096	25,984,500
U.S. Treasuries	912828MW7	US TSY NT	2/24/12	3/31/15	2.27	2.50	50,000,000	53,105,469	52,333,907	52,574,000
U.S. Treasuries	912828TK6	US TSY NT	9/4/12	8/15/15	2.70	0.25	100,000,000	99,826,087	99,841,436	99,844,000
U.S. Treasuries	912828PE4	US TSY NT	12/23/11	10/31/15	2.87	1.25	25,000,000	25,609,375	25,460,494	25,666,000
U.S. Treasuries	912828PJ3	US TSY NT	12/16/10	11/30/15	2.95	1.38	50,000,000	49,519,531	49,709,595	51,531,500
U.S. Treasuries	912828PJ3	US TSY NT	12/16/10	11/30/15	2.95	1.38	50,000,000	49,519,531	49,709,595	51,531,500
U.S. Treasuries	912828PJ3	US TSY NT	12/23/10	11/30/15	2.95	1.38	50,000,000	48,539,063	49,113,552	51,531,500
U.S. Treasuries	912828QF0	US TSY NT	3/15/12	4/30/16	3.32	2.00	50,000,000	52,199,219	51,818,332	52,746,000
U.S. Treasuries	912828RJ1	US TSY NT	10/11/11	9/30/16	3.76	1.00	75,000,000	74,830,078	74,869,097	76,599,750
U.S. Treasuries	912828SJ0	US TSY NT	3/14/12	2/28/17	4.17	0.88	100,000,000	99,695,313	99,739,368	101,594,000
U.S. Treasuries	912828SJ0	US TSY NT	3/21/12	2/28/17	4.17	0.88	25,000,000	24,599,609	24,656,174	25,398,500
U.S. Treasuries	912828SJ0	US TSY NT	3/21/12	2/28/17	4.17	0.88	25,000,000	24,599,609	24,656,174	25,398,500
U.S. Treasuries	912828SM3	US TSY NT	4/4/12	3/31/17	4.25	1.00	50,000,000	49,835,938	49,857,638	51,035,500
U.S. Treasuries	912828TM2	US TSY NT	9/17/12	8/31/17	4.68	0.63	60,000,000	59,825,423	59,833,391	60,145,200
U.S. Treasuries	912828TS9	US TSY NT	10/18/12	9/30/17	4.76	0.63	75,000,000	74,636,461	74,645,873	75,117,000
<b>Subtotals</b>					<b>3.30</b>	<b>1.12</b>	<b>\$ 835,000,000</b>	<b>\$ 838,997,346</b>	<b>\$ 837,427,626</b>	<b>\$ 902,407,700</b>

Federal Agencies	31398A6V9	FNMA FRN QTR FF+20	12/21/10	12/31/12	0.00	0.36	\$ 50,000,000	\$ 50,000,000	\$ 50,000,000	\$ 50,000,000
Federal Agencies	31398A6V9	FNMA FRN QTR FF+20	12/23/10	12/31/12	0.00	0.36	50,000,000	50,000,000	50,000,000	50,000,000
Federal Agencies	31331G2R9	FFCB	3/26/10	12/7/12	0.00	1.88	37,000,000	37,333,370	37,002,027	37,007,030
Federal Agencies	31331JAB9	FFCB BULLET	4/16/10	12/24/12	0.07	1.63	50,000,000	50,048,500	50,001,135	50,042,000
Federal Agencies	3134G1U69	FHLMC FRN QTR FF+19	1/11/11	1/10/13	0.11	0.35	50,000,000	50,000,000	50,000,000	50,009,500
Federal Agencies	3134G1U69	FHLMC FRN QTR FF+19	1/12/11	1/10/13	0.11	0.35	50,000,000	49,989,900	49,999,446	50,009,500
Federal Agencies	3134G1U69	FHLMC FRN QTR FF+19	3/22/11	1/10/13	0.11	0.35	35,000,000	35,015,925	35,000,965	35,006,650
Federal Agencies	31331KM31	FFCB FLT T-BILL+22	12/12/11	5/1/13	0.42	0.32	20,000,000	20,002,836	20,000,836	20,009,600
Federal Agencies	3137EABM0	FHLMC BONDS	5/13/11	6/28/13	0.57	3.75	25,000,000	26,608,250	25,432,592	25,515,500
Federal Agencies	3134G2B50	FHLMC FRN FF+23	9/1/11	9/3/13	0.76	0.39	50,000,000	49,979,500	49,992,281	50,072,500
Federal Agencies	3134G2K43	FHLMC FLT NT FF+21	9/13/11	9/12/13	0.78	0.37	50,000,000	49,969,500	49,988,092	50,066,500
Federal Agencies	31315PLT4	FARMER MAC	12/6/10	12/6/13	1.01	1.25	35,000,000	34,951,700	34,983,694	35,330,400
Federal Agencies	313379QY8	FHLB FLT NT FF+9	11/30/12	12/20/13	1.05	0.25	25,000,000	25,024,133	25,024,101	25,009,750
Federal Agencies	31331J6A6	FFCB	12/23/10	12/23/13	1.05	1.30	22,000,000	21,993,125	21,997,572	22,248,820
Federal Agencies	313371UC8	FHLB	11/18/10	12/27/13	1.07	0.88	40,000,000	39,928,000	39,975,196	40,275,200
Federal Agencies	3135G0AZ6	FNMA FRN QTR T-BILL+21	3/4/11	3/4/14	1.26	0.32	25,000,000	24,985,000	24,993,732	25,024,500
Federal Agencies	3135G0AZ6	FNMA FRN QTR T-BILL+21	3/4/11	3/4/14	1.26	0.32	25,000,000	24,992,500	24,996,866	25,024,500
Federal Agencies	313379RV3	FHLB FLT NT FF+12	6/11/12	3/11/14	1.28	0.28	50,000,000	49,986,700	49,990,306	50,037,500
Federal Agencies	31398A3R1	FNMA AMORT TO CALL	11/10/10	3/21/14	1.30	1.35	24,500,000	24,564,827	24,500,000	24,788,610
Federal Agencies	31315PHX0	FARMER MAC MTN	4/10/12	6/5/14	1.47	3.15	14,080,000	14,878,195	14,639,549	14,645,171
Federal Agencies	3133XWE70	FHLB TAP	5/15/12	6/13/14	1.50	2.50	48,000,000	50,088,480	49,538,156	49,620,960
Federal Agencies	3133XWE70	FHLB TAP	6/11/12	6/13/14	1.50	2.50	50,000,000	52,094,500	51,599,488	51,688,500
Federal Agencies	3133724E1	FHLB	12/31/10	6/30/14	1.57	1.21	50,000,000	50,000,000	50,000,000	50,724,000
Federal Agencies	3137EACU1	FHLMC BONDS	6/2/11	7/30/14	1.65	1.00	75,000,000	74,946,000	74,971,643	75,914,250
Federal Agencies	3134G2UA8	FHLMC NT	12/11/11	8/20/14	1.71	1.00	53,000,000	53,468,944	53,296,101	53,626,990
Federal Agencies	3134G2UA8	FHLMC NT	12/14/11	8/20/14	1.71	1.00	25,000,000	25,232,315	25,148,634	25,295,750
Federal Agencies	31398A3G5	FNMA EX-CALL NT	4/4/12	9/8/14	1.75	1.50	13,200,000	13,515,216	13,429,571	13,445,124
Federal Agencies	3136FTRF8	FNMA FLT QTR FF+39	12/12/11	11/21/14	1.97	0.55	26,500,000	26,523,585	26,515,796	26,641,245
Federal Agencies	31331J4S9	FFCB	12/16/10	12/8/14	1.99	1.40	24,000,000	23,988,000	23,993,913	24,523,920

November 30, 2012

City and County of San Francisco

# Investment Inventory

## Pooled Fund

Type of Investment	CUSIP	Issue Name	Settle Date	Maturity Date	Duration	Coupon	Par Value	Book Value	Amortized Book Value	Market Value
Federal Agencies	3133TJ4S9	FFCB	12/8/10	12/8/14	1.99	19,000,000	18,956,680	18,978,147	19,414,770	
Federal Agencies	313371W51	FHLB	12/6/10	12/12/14	2.00	50,000,000	49,725,000	49,861,094	50,823,000	
Federal Agencies	313371W51	FHLB	12/8/10	12/12/14	2.00	75,000,000	74,391,000	74,691,967	76,234,500	
Federal Agencies	3133XVNU1	FHLB	11/23/10	12/12/14	1.97	25,000,000	26,848,308	26,125,133	26,653,998	
Federal Agencies	3133XVNU1	FHLB	11/23/10	12/12/14	1.97	2,915,000	3,079,668	2,997,445	3,058,914	
Federal Agencies	3133XVNU1	FHLB	12/8/10	12/12/14	1.97	50,000,000	52,674,000	51,352,515	52,468,500	
Federal Agencies	313371W93	FHLB	12/15/10	12/15/14	2.01	75,000,000	75,000,000	75,000,000	75,529,250	
Federal Agencies	3136FTVW6	FNMA FLT QTR FF+35	12/15/11	12/15/14	2.03	75,000,000	75,000,000	75,000,000	75,344,250	
Federal Agencies	3135G0GM9	FNMA CALL NT	12/23/11	12/23/14	2.04	25,040,000	25,040,000	25,021,176	25,101,000	
Federal Agencies	31331J6Q1	FFCB	12/29/10	12/29/14	2.04	27,175,000	27,157,065	27,165,695	27,945,140	
Federal Agencies	31331J6Q1	FFCB	12/29/10	12/29/14	2.04	65,000,000	64,989,600	64,994,604	66,842,100	
Federal Agencies	3133EAQ35	FFCB FLT NT FF+14	9/4/12	3/4/15	2.25	100,000,000	99,924,300	99,931,612	100,005,000	
Federal Agencies	3133EAJP4	FFCB FLT NT 1ML+1.5	4/30/12	4/27/15	2.40	50,000,000	49,992,600	49,994,057	49,983,000	
Federal Agencies	31315PWJ4	FARMER MAC FLT NT FF+26	5/3/12	5/1/15	2.41	50,000,000	50,000,000	50,000,000	50,133,000	
Federal Agencies	3133EANJ3	FFCB BD	5/1/12	5/1/15	2.41	50,000,000	49,944,000	49,954,944	49,973,000	
Federal Agencies	3133EAQC5	FFCB FLT NT 1ML+1	6/8/12	5/14/15	2.45	50,000,000	49,985,500	49,987,885	50,188,000	
Federal Agencies	3137EACM9	FHLMC BONDS	12/15/10	9/10/15	2.71	50,000,000	49,050,000	49,443,728	51,896,500	
Federal Agencies	313370JB5	FHLB	12/15/10	9/11/15	2.72	75,000,000	73,587,000	74,172,281	77,816,250	
Federal Agencies	31315PGT0	FARMER MAC	9/15/10	9/15/15	2.71	45,000,000	44,914,950	44,952,584	46,825,650	
Federal Agencies	31398A3T7	FNMA NT EX-CALL	10/14/11	9/21/15	2.74	25,000,000	25,881,000	25,627,360	26,123,750	
Federal Agencies	3133EAJF6	FFCB FLT NT 1ML+2.5	11/30/12	9/22/15	2.80	27,953,000	27,942,564	27,942,564	27,933,433	
Federal Agencies	31398A4M1	FNMA	12/15/10	10/26/15	2.85	25,000,000	24,317,500	24,593,036	25,887,000	
Federal Agencies	31398A4M1	FNMA	12/23/10	10/26/15	2.85	42,000,000	40,924,380	41,355,723	43,490,160	
Federal Agencies	31331J2S1	FFCB	12/15/10	11/16/15	2.91	25,000,000	24,186,981	24,511,374	25,860,000	
Federal Agencies	3134G3V23	FHLMC CALL NT	11/20/12	11/20/15	2.95	25,000,000	25,000,000	25,000,000	25,031,250	
Federal Agencies	313371ZY5	FHLB	12/3/10	12/11/15	2.93	25,000,000	24,982,000	24,989,155	26,172,500	
Federal Agencies	313371ZY5	FHLB	12/14/10	12/11/15	2.93	50,000,000	49,871,500	49,922,111	52,345,000	
Federal Agencies	313375RN9	FHLB NT	4/13/12	3/11/16	3.23	22,200,000	22,357,620	22,332,012	22,600,266	
Federal Agencies	3133EAJU3	FFCB NT	4/12/12	3/28/16	3.27	25,000,000	25,220,750	25,185,180	25,534,250	
Federal Agencies	313379Z21	FHLB NT	4/18/12	4/18/16	3.34	20,000,000	19,992,200	19,993,412	20,233,400	
Federal Agencies	3135G0RZ8	FNMA CALL NT	11/30/12	5/26/16	3.46	22,540,000	22,541,377	22,541,377	22,541,127	
Federal Agencies	313373ZN5	FHLB	6/6/11	6/6/16	3.38	35,000,000	35,000,000	35,000,000	36,881,950	
Federal Agencies	31315PYC7	FAMCA CALL MTN	6/6/12	6/6/16	0.00	10,000,000	10,000,000	10,000,000	10,000,500	
Federal Agencies	31315PB73	FAMCA NT	2/9/12	6/9/16	3.46	10,000,000	10,000,000	10,000,000	10,179,800	
Federal Agencies	31315PA25	FAMCA NT	7/27/11	7/27/16	3.52	15,000,000	14,934,750	14,952,357	15,745,350	
Federal Agencies	3134G2SP8	FHLMC CALL	7/28/11	7/28/16	3.53	50,000,000	50,022,500	50,002,373	50,123,500	
Federal Agencies	313370TW8	FHLB BD	10/11/11	9/9/16	3.64	25,000,000	25,727,400	25,558,416	26,490,000	
Federal Agencies	3135G0CM3	FNMA NT	10/11/11	9/28/16	3.74	25,000,000	24,856,450	24,889,449	25,715,750	
Federal Agencies	3135G0ES8	FNMA NT	12/14/11	11/15/16	3.86	50,000,000	50,309,092	50,248,408	51,583,000	
Federal Agencies	313381GAY	FHLB NT	11/30/12	11/30/16	3.96	23,100,000	23,104,389	23,104,386	23,109,009	
Federal Agencies	3134G3CB4	FHLMC NT CALL	2/23/12	12/5/16	0.00	34,695,000	34,695,008	34,698,567	34,697,429	
Federal Agencies	3136FTUZ0	FNMA CALL NT	12/30/11	12/30/16	3.96	50,000,000	49,975,000	49,979,611	50,602,000	
Federal Agencies	31315PWW5	FARMER MAC MTN	5/4/12	1/17/17	4.05	49,500,000	49,475,250	49,478,288	50,323,185	
Federal Agencies	3136FTL31	FNMA STEP BD CALL	4/30/12	2/7/17	4.12	30,765,000	30,872,678	30,836,951	30,926,824	
Federal Agencies	3137EADC0	FHLMC NT	3/12/12	3/8/17	4.18	50,000,000	49,697,500	49,741,331	50,786,500	
Federal Agencies	3133782N0	FHLB NT	3/12/12	3/10/17	4.20	14,845,000	14,698,035	14,719,306	15,012,749	
Federal Agencies	3133782N0	FHLB NT	3/12/12	3/10/17	4.20	55,660,000	55,157,087	55,229,877	56,288,958	
Federal Agencies	3136FTZ77	FNMA STR NT	3/13/12	3/13/17	4.20	50,000,000	50,000,000	50,000,000	50,158,500	
Federal Agencies	31315PTQ2	FARMER MAC MTN	4/10/12	4/10/17	4.25	12,500,000	12,439,250	12,447,068	12,763,125	
Federal Agencies	3134G3TR1	FHLMC MTN CALL	4/12/12	4/12/17	4.24	30,000,000	30,000,000	30,000,000	30,147,000	

# Investment Inventory

## Pooled Fund

Type of Investment	CUSIP	Issue Name	Settle Date	Maturity Date	Duration	Coupon	Par Value	Book Value	Amortized Book Value	Market Value
Federal Agencies	3136G0CC3	FNMA STRNT	4/18/12	4/18/17	4.31	0.85	30,000,000	30,000,000	30,000,000	30,268,800
Federal Agencies	31315PUQ0	FARMER MAC MTN	4/26/12	4/26/17	4.31	1.13	10,500,000	10,500,000	10,500,000	10,686,270
Federal Agencies	3133EAPB8	FFCB CALL NT	5/2/12	5/2/17	4.31	1.23	25,000,000	25,000,000	25,000,000	25,099,250
Federal Agencies	3135G0KP7	FNMA CALL NT	5/3/12	5/3/17	4.27	1.75	75,858,000	75,858,000	75,359,655	75,513,750
Federal Agencies	3133794Y2	FHLB FIX-TO-FLOAT CALL NT	5/9/12	5/9/17	4.39	0.50	25,000,000	25,000,000	25,000,000	24,842,250
Federal Agencies	3137EADF3	FHLMC NT	5/14/12	5/12/17	4.34	1.25	25,133,000	25,133,000	25,118,344	25,671,250
Federal Agencies	3136G0GWS	FNMA STEP NT CALL	6/11/12	5/23/17	4.41	0.85	50,290,500	50,290,500	50,219,816	50,321,000
Federal Agencies	3133EAUW6	FFCB FLT NT FF+22	6/19/12	6/19/17	4.51	0.38	50,000,000	50,000,000	50,000,000	49,940,500
Federal Agencies	3136G0ZA2	FNMA STEP NT	9/12/12	9/12/17	4.70	0.75	15,000,000	15,000,000	15,000,000	15,050,100
Federal Agencies	3136G0B59	FNMA STEP NT	9/20/12	9/20/17	4.73	0.70	64,750,000	64,750,000	64,750,000	64,931,300
Federal Agencies	3136G0D81	FNMA STEP NT	9/27/12	9/27/17	4.75	0.72	100,000,000	100,000,000	100,000,000	100,492,000
Federal Agencies	3136G0Y39	FNMA STEP NT	11/8/12	11/8/17	4.87	0.63	50,000,000	50,000,000	50,000,000	50,197,000
<b>Subtotals</b>					<b>2.50</b>	<b>1.13</b>	<b>\$3,527,778,000</b>	<b>\$3,536,337,397</b>	<b>\$3,532,464,082</b>	<b>\$3,577,140,725</b>
TLGP	36967HAV9	GENERAL ELECTRIC TLGP	11/6/09	12/21/12	0.06	2.13	25,000,000	25,253,750	25,004,448	25,022,750
<b>Subtotals</b>					<b>0.06</b>	<b>2.13</b>	<b>\$25,000,000</b>	<b>\$25,253,750</b>	<b>\$25,004,448</b>	<b>\$25,022,750</b>
State/Local Agencies	130583ER4	CALIFORNIA SCHOOL CASH PROG.	7/2/12	3/1/13	0.25	2.00	6,435,000	6,510,032	6,462,905	6,462,349
State/Local Agencies	130583ET0	CALIFORNIA SCHOOL CASH PROG.	7/2/12	6/3/13	0.51	2.00	6,200,000	6,298,952	6,254,188	6,253,878
State/Local Agencies	107889RL3	TOWNSHIP OF BRICK NJ BAN	7/26/12	7/26/13	0.65	1.00	23,915,000	24,033,858	23,992,176	24,011,377
State/Local Agencies	967244L36	CITY OF WICHITA KS	8/9/12	8/15/13	0.71	0.75	4,105,000	4,113,292	4,110,744	4,107,586
State/Local Agencies	022168KZ0	ALUM ROCK ESD SAN JOSE CA	7/13/12	9/1/13	0.75	0.80	1,665,000	1,665,000	1,665,000	1,664,634
State/Local Agencies	463655GW4	IRVINE RANCH CA WTR PRE-RE	3/29/12	3/15/14	1.27	2.61	15,606,300	15,397,143	15,397,143	15,407,400
State/Local Agencies	463655GW4	IRVINE RANCH CA WTR PRE-RE	6/8/12	3/15/14	1.27	2.61	11,115,000	11,542,594	11,425,917	11,416,883
State/Local Agencies	463655GW4	IRVINE RANCH CA WTR PRE-RE	6/8/12	3/15/14	1.27	2.61	8,150,000	8,463,531	8,377,978	8,371,354
State/Local Agencies	13063A5B6	CALIFORNIA ST GO BD	5/2/12	4/1/14	1.30	5.25	2,820,000	3,044,359	2,975,992	2,981,981
State/Local Agencies	62451FFC9	WHISMAN SCHOOL DIST MTN VIEW	7/24/12	8/1/14	1.66	0.75	1,125,000	1,125,000	1,125,000	1,130,389
State/Local Agencies	64966DPC7	NEW YORK CITY GO	6/7/12	11/1/14	1.85	4.75	8,000,000	8,774,720	8,618,363	8,623,280
<b>Subtotals</b>					<b>10.01</b>	<b>2.74</b>	<b>\$88,530,000</b>	<b>\$91,177,638</b>	<b>\$90,405,406</b>	<b>\$90,431,111</b>
Public Time Deposits		BANK OF THE WEST PTD	4/9/12	4/9/13	0.36	0.53	240,000	240,000	240,000	240,000
Public Time Deposits		SAN FRANCISCO FCU PTD	4/9/12	4/9/13	0.36	0.53	240,000	240,000	240,000	240,000
Public Time Deposits		BANK OF SAN FRANCISCO PTD	5/18/12	4/9/13	0.36	0.53	240,000	240,000	240,000	240,000
Public Time Deposits		FIRST NAT. BANK OF NOR. CAL. PTD	8/3/12	4/9/13	0.36	0.50	240,000	240,000	240,000	240,000
<b>Subtotals</b>					<b>0.36</b>	<b>0.52</b>	<b>\$960,000</b>	<b>\$960,000</b>	<b>\$960,000</b>	<b>\$960,000</b>
Negotiable CDs	78009NCS3	RBC YCD	12/16/11	12/17/12	0.05	0.72	50,000,000	50,000,000	50,000,000	49,997,778
Negotiable CDs	89112XLC7	TD YCD	1/12/12	1/14/13	0.12	0.35	50,000,000	50,000,000	50,000,000	49,993,889
Negotiable CDs	60682AAX4	MITSUBISHI UFJ FIN GRP YCD	9/12/12	3/12/13	0.28	0.44	50,000,000	50,000,000	50,000,000	49,970,542
Negotiable CDs	06417ER96	BANK OF NOVA SCOTIA YCD	4/26/12	3/21/13	0.30	0.46	50,000,000	50,000,000	50,000,000	49,967,917
Negotiable CDs	06417E2P7	BANK OF NOVA SCOTIA FF+38	6/17/12	6/7/13	0.52	0.54	25,000,000	25,000,000	25,000,000	25,016,013
Negotiable CDs	06417FAY6	BANK OF NOVA SCOTIA YCD	9/4/12	8/30/13	0.75	0.38	50,000,000	50,000,000	50,000,000	49,780,889
<b>Subtotals</b>					<b>0.32</b>	<b>0.48</b>	<b>\$275,000,000</b>	<b>\$275,000,000</b>	<b>\$275,000,000</b>	<b>\$274,727,027</b>
Commercial Paper	89233GNJ1	TOYOTA CP	4/24/12	1/18/13	0.13	0.00	30,000,000	29,865,500	29,865,500	29,992,000
Commercial Paper	89233GSU1	TOYOTA CP	8/31/12	5/28/13	0.49	0.00	50,000,000	49,838,750	49,838,750	49,908,528
<b>Subtotals</b>					<b>0.36</b>	<b>0.00</b>	<b>\$80,000,000</b>	<b>\$79,704,250</b>	<b>\$79,704,250</b>	<b>\$79,900,528</b>
Medium Term Notes	89233P5P7	TOYOTA FLT QTR 3ML+20	12/14/11	12/17/12	0.05	0.59	18,200,000	18,200,000	18,200,000	18,202,912
Medium Term Notes	89233P5Q5	TOYOTA FLT QTR 3ML+20	12/15/11	1/11/13	0.12	0.55	10,000,000	10,000,000	10,000,000	10,003,600

# Investment Inventory

## Pooled Fund

Type of Investment	CUSIP	Issue Name	Settle Date	Maturity Date	Duration	Coupon	Par Value	Book Value	Amortized Book Value	Market Value
Medium Term Notes	36962GZY3	GE MTN	3/23/12	1/15/13	0.13	5.45	10,000,000	10,399,100	10,060,267	10,057,600
Medium Term Notes	592179JG1	MET LIFE GLOBAL FUNDING MTN	9/6/12	4/10/13	0.36	5.13	3,710,000	3,815,909	3,773,742	3,769,731
Medium Term Notes	36962G3T9	GE MTN	6/12/12	5/1/13	0.42	4.80	17,648,000	18,300,800	17,953,179	17,967,429
Medium Term Notes	59217EBW3	MET LIFE GLOBAL FUNDING MTN	11/13/12	6/10/14	1.46	5.13	10,000,000	10,943,761	10,920,996	10,665,200
<b>Subtotals:</b>					<b>0.39</b>	<b>5.27</b>	<b>\$ 69,568,000</b>	<b>\$ 74,659,570</b>	<b>\$ 70,908,183</b>	<b>\$ 70,666,472</b>
<b>Grand Totals</b>					<b>2.40</b>	<b>1.13</b>	<b>\$ 4,951,826,000</b>	<b>\$ 4,968,989,950</b>	<b>\$ 4,961,873,995</b>	<b>\$ 5,021,256,313</b>

# Monthly Investment Earnings

## Pooled Fund

For month ended November 30, 2012

Type of Investment	CUSIP	Issue Name	Par Value	Coupon	YTM	Settle Date	Maturity Date	Earned Interest	Amort. Expense	Realized Gain/(Loss)	Earned Income /Net Earnings
U.S. Treasuries	912828QE3	US TSY NT	\$ 25,000,000	0.63	0.42	6/1/11	4/30/13	\$ 12,949	\$ (4,107)	\$ -	\$ 8,841
U.S. Treasuries	912828JT8	US TSY NT	25,000,000	2.00	0.62	6/1/11	11/30/13	40,991	(27,981)	-	13,010
U.S. Treasuries	912828PQ7	US TSY NT	25,000,000	1.00	0.65	6/1/11	1/15/14	20,380	(7,087)	-	13,293
U.S. Treasuries	912828LC2	US TSY NT	25,000,000	2.63	0.85	6/1/11	7/31/14	53,499	(35,886)	-	17,613
U.S. Treasuries	912828MW7	US TSY NT	50,000,000	2.50	0.48	2/24/12	3/31/15	103,022	(82,373)	-	20,649
U.S. Treasuries	912828TK6	US TSY NT	100,000,000	0.25	0.31	9/4/12	8/15/15	20,380	5,233	-	25,613
U.S. Treasuries	912828PE4	US TSY NT	25,000,000	1.25	0.61	12/23/11	10/31/15	25,898	(12,984)	-	12,914
U.S. Treasuries	912828PJ3	US TSY NT	50,000,000	1.38	1.58	12/16/10	11/30/15	56,363	7,984	-	64,326
U.S. Treasuries	912828PJ3	US TSY NT	50,000,000	1.38	1.58	12/16/10	11/30/15	56,363	7,984	-	64,326
U.S. Treasuries	912828PJ3	US TSY NT	50,000,000	1.38	2.00	12/23/10	11/30/15	56,363	24,308	-	80,671
U.S. Treasuries	912828QF0	US TSY NT	50,000,000	2.00	0.91	3/15/12	4/30/16	82,873	(43,780)	-	39,093
U.S. Treasuries	912828RJ1	US TSY NT	75,000,000	1.00	1.05	10/11/11	9/30/16	61,813	2,807	-	64,620
U.S. Treasuries	912828SJ0	US TSY NT	100,000,000	0.88	0.94	3/14/12	2/28/17	72,514	5,045	-	77,558
U.S. Treasuries	912828SJ0	US TSY NT	25,000,000	0.88	1.21	3/21/12	2/28/17	18,128	6,655	-	24,783
U.S. Treasuries	912828SJ0	US TSY NT	25,000,000	0.88	1.21	3/21/12	2/28/17	18,128	6,655	-	24,783
U.S. Treasuries	912828SM3	US TSY NT	50,000,000	1.00	1.07	4/4/12	3/31/17	41,209	2,701	-	43,910
U.S. Treasuries	912828TM2	US TSY NT	60,000,000	0.63	0.69	9/17/12	8/31/17	31,077	3,187	-	34,265
U.S. Treasuries	912828TS9	US TSY NT	75,000,000	0.63	0.73	10/18/12	9/30/17	38,633	6,417	-	45,050
U.S. Treasuries	912828TW0	US TSY NT	-	0.75	0.75	11/7/12	10/31/17	1,036	-	234,375	235,411
<b>Subtotals</b>			<b>\$ 885,000,000</b>					<b>\$ 811,620</b>	<b>\$ (135,265)</b>	<b>\$ 234,375</b>	<b>\$ 910,730</b>

Federal Agencies	31398A6V9	FNMA FRN QTR FF+20	50,000,000	0.36	0.36	12/21/10	12/3/12	15,026	-	-	15,026
Federal Agencies	31398A6V9	FNMA FRN QTR FF+20	50,000,000	0.36	0.36	12/23/10	12/3/12	15,026	-	-	15,026
Federal Agencies	31331G2R9	FFCB	37,000,000	1.88	1.53	3/26/10	12/7/12	57,813	(10,133)	-	47,680
Federal Agencies	31331JAB9	FFCB BULLET	50,000,000	1.63	1.59	4/16/10	12/24/12	67,708	(1,480)	-	66,228
Federal Agencies	3134G1U69	FHLMC FRN QTR FF+19	50,000,000	0.35	0.35	1/11/11	1/10/13	14,611	-	-	14,611
Federal Agencies	3134G1U69	FHLMC FRN QTR FF+19	50,000,000	0.35	0.45	1/22/11	1/10/13	14,611	416	-	15,027
Federal Agencies	3134G1U69	FHLMC FRN QTR FF+19	35,000,000	0.35	0.12	3/22/11	1/10/13	10,228	(724)	-	9,504
Federal Agencies	31331KM31	FFCB FLT T-BILL+22	20,000,000	0.32	0.29	12/12/11	5/1/13	5,262	(166)	-	5,096
Federal Agencies	3137EABM0	FHLMC BONDS	25,000,000	3.75	0.69	5/13/11	6/28/13	78,125	(62,095)	-	16,030
Federal Agencies	3134G2B50	FHLMC FRN FF+23	50,000,000	0.39	0.44	9/1/11	9/3/13	16,237	839	-	17,076
Federal Agencies	3134G2K43	FHLMC FLT NT FF+21	50,000,000	0.37	0.43	9/13/11	9/12/13	15,349	1,253	-	16,603
Federal Agencies	31315PLT4	FARMER MAC	35,000,000	1.25	1.30	12/6/10	12/6/13	36,458	1,322	-	37,780
Federal Agencies	313379QY8	FHLB FLT NT FF+9	25,000,000	0.25	0.20	11/30/12	12/20/13	171	(31)	-	139
Federal Agencies	31331J6A6	FFCB	22,000,000	1.30	1.31	12/23/10	12/23/13	23,833	188	-	24,022
Federal Agencies	313371UC8	FHLB	40,000,000	0.88	0.93	11/18/10	12/27/13	29,167	1,903	-	31,070
Federal Agencies	3135G0AZ6	FNMA FRN QTR T-BILL+21	25,000,000	0.32	0.36	3/4/11	3/4/14	6,510	411	-	6,921
Federal Agencies	3135G0AZ6	FNMA FRN QTR T-BILL+21	25,000,000	0.32	0.34	3/4/11	3/4/14	6,510	205	-	6,715
Federal Agencies	313379RV3	FHLB FLT NT FF+12	50,000,000	0.28	0.30	6/11/12	3/11/14	11,599	625	-	12,225
Federal Agencies	31398A3R1	FNMA AMORT TO CALL	24,500,000	1.35	1.27	11/10/10	3/21/14	27,563	-	-	27,563
Federal Agencies	31315PHX0	FARMER MAC MTN	14,080,000	3.15	0.50	4/10/12	6/5/14	36,960	(30,465)	-	6,495
Federal Agencies	3133XWE70	FHLB TAP	48,000,000	2.50	0.40	5/15/12	6/13/14	100,000	(82,549)	-	17,451
Federal Agencies	3133XWE70	FHLB TAP	50,000,000	2.50	0.40	6/11/12	6/13/14	104,167	(85,840)	-	18,327
Federal Agencies	3133724E1	FHLB	50,000,000	1.21	1.21	12/31/10	6/30/14	50,417	-	-	50,417
Federal Agencies	3137EACU1	FHLMC BONDS	75,000,000	1.00	1.02	6/2/11	7/30/14	62,500	1,404	-	63,904
Federal Agencies	3134G2UA8	FHLMC NT	53,000,000	1.00	0.67	12/1/11	8/20/14	44,167	(14,167)	-	29,999
Federal Agencies	3134G2UA8	FHLMC NT	25,000,000	1.00	0.65	12/14/11	8/20/14	20,833	(7,112)	-	13,722
Federal Agencies	31398A3G5	FNMA EX-CALL NT	13,200,000	1.50	0.51	4/4/12	9/8/14	16,500	(10,661)	-	5,839
Federal Agencies	3128X3L76	FHLMC BONDS	-	5.00	1.71	12/23/10	11/13/14	21,301	1,288,667	(644,811)	665,158

# Monthly Investment Earnings

## Pooled Fund

Type of Investment	CUSIP	Issue Name	Par Value	Coupon	YTM <sup>1</sup>	Settle Date	Maturity Date	Earned Interest	Amort. Expense	Realized Gain/(Loss)	Earned Income /Net Earnings
Federal Agencies	3128X3L76	FHLMC BONDS	-	5.00	1.71	12/23/10	11/13/14	972	58,816	(29,430)	30,359
Federal Agencies	3136FTRF8	FNMA FLT QTR FF+39	26,500,000	0.55	0.51	12/12/11	11/21/14	12,161	(658)	-	11,502
Federal Agencies	31331J4S9	FFCB	24,000,000	1.40	1.41	12/16/10	12/8/14	28,000	280	-	28,248
Federal Agencies	31331J4S9	FFCB	19,000,000	1.40	1.46	12/8/10	12/8/14	22,167	890	-	23,056
Federal Agencies	313371W51	FHLB	50,000,000	1.25	1.39	12/6/10	12/12/14	52,083	5,824	-	57,707
Federal Agencies	313371W51	FHLB	75,000,000	1.25	1.46	12/8/10	12/12/14	78,125	12,471	-	90,596
Federal Agencies	3133XVNU1	FHLB	25,400,000	2.75	1.30	11/23/10	12/12/14	58,208	(29,358)	-	28,851
Federal Agencies	3133XVNU1	FHLB	2,915,000	2.75	1.31	11/23/10	12/12/14	6,680	(3,338)	-	3,342
Federal Agencies	3133XVNU1	FHLB	50,000,000	2.75	1.37	12/8/10	12/12/14	114,583	(54,758)	-	59,826
Federal Agencies	313371W93	FHLB	75,000,000	1.34	1.34	12/15/10	12/15/14	83,750	-	-	83,750
Federal Agencies	3136FTVN6	FNMA FLT QTR FF+35	75,000,000	0.51	0.51	12/15/11	12/15/14	31,917	-	-	31,917
Federal Agencies	3135G0GM9	FNMA CALL NT	25,000,000	0.83	0.77	12/23/11	12/23/14	17,188	(1,642)	-	15,546
Federal Agencies	31331J6Q1	FFCB	27,175,000	1.72	1.74	12/29/10	12/29/14	38,951	368	-	39,319
Federal Agencies	31331J6Q1	FFCB	65,000,000	1.72	1.72	12/29/10	12/29/14	93,167	214	-	93,380
Federal Agencies	31331J6Q1	FFCB	100,000,000	0.34	0.27	9/4/12	3/4/15	28,283	2,493	-	30,776
Federal Agencies	3133EAQ35	FFCB FLT NT FF+14	50,000,000	0.22	0.23	4/30/12	4/27/15	9,403	203	-	9,606
Federal Agencies	3135EAPJ4	FFCB FLT NT 1ML+1.5	50,000,000	0.42	0.42	5/3/12	5/1/15	17,623	-	-	17,623
Federal Agencies	3133EANJ3	FFCB BD	50,000,000	0.50	0.54	5/1/12	5/1/15	20,833	1,534	-	22,368
Federal Agencies	3133EAQC5	FFCB FLT NT 1ML+1	50,000,000	0.22	0.23	6/8/12	5/14/15	9,203	407	-	9,610
Federal Agencies	3137EACM9	FHLMC BONDS	50,000,000	1.75	2.17	12/15/10	9/10/15	72,917	16,474	-	89,391
Federal Agencies	313370JB5	FHLB	75,000,000	1.75	2.31	12/15/10	9/11/15	109,375	24,489	-	133,864
Federal Agencies	31315PGT0	FARMER MAC	45,000,000	2.13	2.17	9/15/10	9/15/15	79,688	1,397	-	81,085
Federal Agencies	31398A3T7	FNMA NT EX-CALL	25,000,000	2.00	1.08	10/14/11	9/21/15	41,667	(18,380)	-	23,287
Federal Agencies	3135EAFJ6	FFCB FLT NT 1ML+2.5	27,953,000	0.23	0.25	11/30/12	9/22/15	181	12	-	192
Federal Agencies	31398A4M1	FNMA	25,000,000	1.63	2.22	12/15/10	10/26/15	33,854	11,529	-	45,383
Federal Agencies	31398A4M1	FNMA	42,000,000	1.63	2.19	12/23/10	10/26/15	56,875	18,251	-	75,126
Federal Agencies	31315PVW6	FARMER MAC CALL MTN	-	0.74	0.74	5/2/12	11/2/15	699	-	-	699
Federal Agencies	31331J2S1	FFCB	25,000,000	1.50	2.20	12/15/10	11/16/15	31,250	13,573	-	44,823
Federal Agencies	3134G3V23	FHLMC CALL NT	25,000,000	0.53	0.53	11/20/12	11/20/15	4,049	-	-	4,049
Federal Agencies	313371ZY5	FHLB	25,000,000	1.88	1.89	12/3/10	12/11/15	39,063	294	-	39,357
Federal Agencies	313371ZY5	FHLB	50,000,000	1.88	1.93	12/14/10	12/11/15	78,125	2,115	-	80,240
Federal Agencies	313375RN9	FHLB NT	22,200,000	1.00	0.82	4/13/12	3/11/16	18,500	(3,311)	-	15,189
Federal Agencies	3133EAJU3	FFCB NT	25,000,000	1.05	0.82	4/12/12	3/28/16	21,875	(4,580)	-	17,295
Federal Agencies	313379Z21	FHLB NT	20,000,000	0.81	0.82	4/18/12	4/18/16	13,500	160	-	13,660
Federal Agencies	3135G0RZ8	FNMA CALL NT	22,540,000	0.55	0.55	11/30/12	5/26/16	344	-	-	344
Federal Agencies	313373ZN5	FHLB	35,000,000	2.03	2.03	6/6/11	6/6/16	59,208	-	-	59,208
Federal Agencies	31315PYC7	FAMCA CALL MTN	10,000,000	0.95	0.95	6/6/12	6/6/16	7,917	-	-	7,917
Federal Agencies	31315PB73	FAMCA NT	10,000,000	0.90	0.90	2/9/12	6/9/16	7,500	-	-	7,500
Federal Agencies	31315PA25	FAMCA NT	15,000,000	2.00	2.09	7/27/11	7/27/16	25,000	1,071	-	26,071
Federal Agencies	3134G2SP8	FHLMC CALL	50,000,000	2.00	1.99	7/28/11	7/28/16	83,333	(1,227)	-	82,106
Federal Agencies	313370TW8	FHLB BD	25,000,000	2.00	1.39	10/11/11	9/9/16	41,667	(12,157)	-	29,510
Federal Agencies	3135G0CM3	FNMA NT	25,000,000	1.25	1.37	10/11/11	9/28/16	26,042	2,374	-	28,416
Federal Agencies	3134G2E1	FHLMC CALL NT	-	1.60	1.53	12/27/11	11/2/16	1,111	82,235	(82,500)	846
Federal Agencies	3135G0ES8	FNMA NT	50,000,000	1.38	1.25	12/14/11	11/15/16	57,292	(5,157)	-	52,134
Federal Agencies	313381GA7	FHLB NT	23,100,000	0.57	0.57	11/30/12	11/30/16	366	(3)	-	363
Federal Agencies	3134G3CB4	FHLMC NT CALL	34,695,000	1.63	1.47	2/23/12	12/5/16	46,983	(26,749)	-	20,234
Federal Agencies	3136FTUZ0	FNMA CALL NT	50,000,000	1.40	1.41	12/30/11	12/30/16	58,333	411	-	58,744
Federal Agencies	31315PWW5	FARMER MAC MTN	49,500,000	1.01	1.02	5/4/12	1/17/17	41,663	432	-	42,094
Federal Agencies	3136FTL31	FNMA STEP BD CALL	30,765,000	0.75	0.68	4/30/12	2/7/17	19,228	(4,985)	-	14,243
Federal Agencies	3137EADC0	FHLMC NT	50,000,000	1.00	1.13	3/12/12	3/8/17	41,667	4,981	-	46,647

# Monthly Investment Earnings

## Pooled Fund

Type of Investment	CUSIP	Issue Name	Par Value	Coupon	YTM	Settle Date	Maturity Date	Earned Interest	Amort. Expense	Realized Gain/(Loss)	Earned Income /Net Earnings
Federal Agencies	3133782N0	FHLB NT	14,845,000	0.88	1.08	3/12/12	3/10/17	10,824	2,417	-	13,242
Federal Agencies	3133782N0	FHLB NT	55,660,000	0.88	1.06	3/12/12	3/10/17	40,585	8,272	-	48,857
Federal Agencies	3136FTZ77	FNMA STR NT	50,000,000	1.00	1.00	3/13/12	3/13/17	41,667	-	-	41,667
Federal Agencies	31315PTQ2	FARMER MAC MTN	12,500,000	1.26	1.36	4/10/12	4/10/17	13,125	998	-	14,123
Federal Agencies	3134G3TR1	FHLMC MTN CALL	30,000,000	1.45	1.45	4/12/12	4/12/17	36,250	-	-	36,250
Federal Agencies	3136G0CC3	FNMA STR NT	30,000,000	0.85	0.85	4/18/12	4/18/17	21,250	-	-	21,250
Federal Agencies	31315PUQ0	FARMER MAC MTN	10,500,000	1.13	1.13	4/26/12	4/26/17	9,844	-	-	9,844
Federal Agencies	3133EAPB8	FFCB CALL NT	25,000,000	1.23	1.23	5/2/12	5/2/17	25,625	(70,521)	-	25,625
Federal Agencies	3135G0KP7	FNMA CALL NT	75,000,000	1.75	1.51	5/3/12	5/3/17	109,375	-	-	38,854
Federal Agencies	3133794Y2	FHLB FIX-TO-FLOAT CALL NT	25,000,000	0.50	0.50	5/9/12	5/9/17	10,417	-	-	10,417
Federal Agencies	3137EADF3	FHLMC NT	25,000,000	1.25	1.14	5/14/12	5/12/17	26,042	(2,188)	-	23,854
Federal Agencies	3136G0GW5	FNMA STEP NT CALL	50,000,000	0.85	0.73	6/1/12	5/23/17	35,417	(12,257)	-	23,159
Federal Agencies	3133EAUW6	FFCB FLT NT FF+22	50,000,000	0.38	0.38	6/19/12	6/19/17	15,917	-	-	15,917
Federal Agencies	3136G0ZA2	FNMA STEP NT	15,000,000	0.75	0.75	9/12/12	9/12/17	9,375	-	-	9,375
Federal Agencies	3136G0B59	FNMA STEP NT	64,750,000	0.70	0.70	9/20/12	9/20/17	37,771	-	-	37,771
Federal Agencies	3136G0D81	FNMA STEP NT	100,000,000	0.72	0.72	9/27/12	9/27/17	60,000	-	-	60,000
Federal Agencies	3136G0Y39	FNMA STEP NT	50,000,000	0.63	0.63	1/18/12	1/18/17	19,965	-	-	19,965
<b>Subtotals</b>			<b>\$3,527,778,000</b>					<b>\$3,274,666</b>	<b>\$101,529</b>	<b>\$ (456,741)</b>	<b>\$3,533,218</b>
TLGP	36967HAV9	GENERAL ELECTRIC TLGP	\$ 25,000,000	2.13	1.79	11/6/09	12/21/12	\$ 44,271	\$ (6,672)	\$ -	\$ 37,599
<b>Subtotals</b>			<b>\$ 25,000,000</b>					<b>\$ 44,271</b>	<b>\$ (6,672)</b>	<b>\$ -</b>	<b>\$ 31,599</b>
State/Local Agencies	130583ER4	CALIFORNIA SCHOOL CASH PROG.	\$ 6,435,000	2.00	0.24	7/2/12	3/1/13	\$ 10,725	\$ (9,302)	\$ -	\$ 1,424
State/Local Agencies	130583ET0	CALIFORNIA SCHOOL CASH PROG.	6,200,000	2.00	0.26	7/2/12	6/3/13	10,333	(8,835)	-	1,498
State/Local Agencies	107899RL3	TOWNSHIP OF BRICK NJ BAN	23,915,000	1.00	0.50	7/26/12	7/26/13	19,929	(9,769)	-	10,160
State/Local Agencies	967244L36	CITY OF WICHITA KS	4,105,000	0.75	0.55	8/9/12	8/15/13	2,566	(671)	-	1,895
State/Local Agencies	022168KZ0	ALUM ROCK ESD SAN JOSE CA	1,665,000	0.80	0.80	7/13/12	9/1/13	1,110	-	-	1,110
State/Local Agencies	463655GW4	IRVINE RANCH CA WTR PRE-RE	15,000,000	2.61	0.53	3/29/12	3/15/14	32,563	(25,404)	-	7,159
State/Local Agencies	463655GW4	IRVINE RANCH CA WTR PRE-RE	11,115,000	2.61	0.42	6/8/12	3/15/14	24,129	(19,888)	-	4,241
State/Local Agencies	463655GW4	IRVINE RANCH CA WTR PRE-RE	8,150,000	2.61	0.42	6/8/12	3/15/14	17,692	(14,583)	-	3,109
State/Local Agencies	13063A5B6	CALIFORNIA ST GO BD	2,820,000	5.25	1.04	5/2/12	4/1/14	12,338	(9,629)	-	2,708
State/Local Agencies	62451FFC9	WHISMAN SCHOOL DIST MTN VIEW	1,125,000	0.75	0.75	7/24/12	8/1/14	704	-	-	704
State/Local Agencies	64966DPC7	NEW YORK CITY GO	8,000,000	4.75	0.68	6/7/12	11/1/14	31,667	(26,501)	-	5,165
<b>Subtotals</b>			<b>\$3,530,000</b>					<b>\$163,755</b>	<b>\$ (124,581)</b>	<b>\$ -</b>	<b>\$39,174</b>
Public Time Deposits		BANK OF THE WEST PTD	\$ 240,000	0.53	0.53	4/9/12	4/9/13	\$ 106	\$ -	\$ -	\$ 106
Public Time Deposits		SAN FRANCISCO FCU PTD	240,000	0.53	0.53	4/9/12	4/9/13	105	-	-	105
Public Time Deposits		BANK OF SAN FRANCISCO PTD	240,000	0.53	0.53	5/18/12	4/9/13	106	-	-	106
Public Time Deposits		FIRST NAT. BANK OF NOR. CAL. PTI	240,000	0.50	0.50	8/3/12	4/9/13	99	-	-	99
<b>Subtotals</b>			<b>\$960,000</b>					<b>\$416</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$416</b>
Negotiable CDs	78009NBL9	RBC YCD FLT 1ML+22	-	0.43	0.43	11/2/11	11/2/12	\$ 603	\$ -	\$ -	\$ 603
Negotiable CDs	78009NBU9	RBC YCD	-	0.67	0.67	11/16/11	11/16/12	13,958	-	-	13,958
Negotiable CDs	78009NCS3	RBC YCD	50,000,000	0.72	0.72	12/16/11	12/17/12	30,000	-	-	30,000
Negotiable CDs	89112XLC7	TD YCD	50,000,000	0.35	0.35	1/12/12	1/14/13	14,583	-	-	14,583
Negotiable CDs	60682AAX4	MITSUBISHI UFJ FIN GRP YCD	50,000,000	0.44	0.44	9/12/12	3/12/13	18,333	-	-	18,333
Negotiable CDs	06417ER96	BANK OF NOVA SCOTIA YCD	50,000,000	0.46	0.46	4/26/12	3/21/13	19,167	-	-	19,167
Negotiable CDs	06417E2P7	BANK OF NOVA SCOTIA FF+38	25,000,000	0.54	0.54	6/7/12	6/7/13	11,296	-	-	11,296
Negotiable CDs	06417FAY6	BANK OF NOVA SCOTIA YCD	50,000,000	0.38	0.38	9/4/12	8/30/13	15,833	-	-	15,833
<b>Subtotals</b>			<b>\$275,000,000</b>					<b>\$123,774</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$123,774</b>

# Monthly Investment Earnings

## Pooled Fund

Type of Investment	CUSIP	Issue Name	Par Value	Coupon	YTM <sup>1</sup>	Settle Date	Maturity Date	Earned Interest	Amort. Expense	Realized Gain/(Loss)	Earned Income /Net Earnings
Commercial Paper	89233GNJ1	TOYOTA CP	\$ 30,000,000	0.00	0.60	4/24/12	1/18/13	\$ 15,000	- \$	- \$	\$ 15,000
Commercial Paper	89233GSU1	TOYOTA CP	\$ 50,000,000	0.00	0.43	8/31/12	5/28/13	17,917	-	-	17,917
<b>Subtotals</b>			<b>\$ 80,000,000</b>					<b>\$ 32,917</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 32,917</b>
Medium Term Notes	89233P5P7	TOYOTA FLT QTR 3ML+20	\$ 18,200,000	0.59	0.59	12/14/11	12/17/12	\$ 8,929	- \$	- \$	\$ 8,929
Medium Term Notes	89233P5Q5	TOYOTA FLT QTR 3ML+20	10,000,000	0.55	0.55	12/15/11	1/11/13	4,556	-	-	4,556
Medium Term Notes	36962GZY3	GE MTN	10,000,000	5.45	0.51	3/23/12	1/15/13	45,417	(40,178)	-	5,239
Medium Term Notes	592179JG1	MET LIFE GLOBAL FUNDING MTN	3,710,000	5.13	0.31	9/6/12	4/10/13	15,845	(14,710)	-	1,135
Medium Term Notes	36962G3T9	GE MTN	17,648,000	4.80	0.61	6/12/12	5/1/13	70,592	(60,632)	-	9,960
Medium Term Notes	59217EBW3	MET LIFE GLOBAL FUNDING MTN	10,000,000	5.13	0.49	1/13/12	6/10/14	25,625	(22,765)	-	2,860
<b>Subtotals</b>			<b>\$ 69,556,000</b>					<b>\$ 170,964</b>	<b>\$ (138,284)</b>	<b>\$ -</b>	<b>\$ 32,680</b>
<b>Grand Totals</b>			<b>\$ 4,951,826,000</b>					<b>\$ 4,622,382</b>	<b>\$ 610,492</b>	<b>\$ (522,366)</b>	<b>\$ 4,710,508</b>

<sup>1</sup>Yield to maturity is calculated at purchase



# Investment Transactions

For month ended November 30, 2012

Transaction	Type	Settle Date	Maturity	Date	Type of Investment	Issuer Name	CUSIP	Par Value	Coupon	YTM	Price	Interest	Transaction Amount
Purchase	11/7/2012	10/31/2017	U.S. Treasuries	US TSY NT	912828TW0	\$ 50,000,000	0.75	\$ 99.98	\$ -	49,999,439			
Purchase	11/8/2012	11/8/2017	Federal Agencies	FNMA STEP NT	31336G0Y39	50,000,000	0.63	100.00	-	50,000,000			
Purchase	11/13/2012	6/10/2014	Medium Term Notes	MET LIFE GLOBAL FUNDING	59217EBW3	10,000,000	5.13	107.26	-	10,943,761			
Purchase	11/20/2012	11/20/2015	Federal Agencies	FHLMC CALL NT	3134G3V23	25,000,000	0.53	100.00	-	25,000,000			
Purchase	11/30/2012	5/26/2016	Federal Agencies	FNMA CALL NT	3135G0RZ8	22,540,000	0.55	100.00	-	22,541,377			
Purchase	11/30/2012	12/20/2013	Federal Agencies	FHLB FLT NT FF+9	313379QY8	25,000,000	0.25	100.05	-	25,024,133			
Purchase	11/30/2012	11/30/2016	Federal Agencies	FHLB NT	313381GA7	23,100,000	0.57	100.02	-	23,104,389			
Purchase	11/30/2012	9/22/2015	Federal Agencies	FECB FLT NT 1ML+2.5	3133EAJF6	27,953,000	0.23	99.96	-	27,942,564			
<b>Subtotals</b>						<b>\$ 233,593,000</b>	<b>0.73</b>	<b>\$ 100.31</b>	<b>\$ -</b>	<b>\$ 234,555,663</b>			
Sale	11/8/2012	11/13/2014	Federal Agencies	FHLMC BONDS	3128X3L76	\$ 21,910,000	5.00	\$ 112.31	\$ 532,535	\$ 24,494,625			
Sale	11/8/2012	11/13/2014	Federal Agencies	FHLMC BONDS	3128X3L76	1,000,000	5.00	112.31	24,306	1,117,966			
Sale	11/8/2012	10/31/2017	U.S. Treasuries	US TSY NT	912828TW0	50,000,000	0.75	99.98	1,036	50,234,850			
<b>Subtotals</b>						<b>\$ 72,910,000</b>	<b>2.09</b>	<b>\$ 103.86</b>	<b>\$ 557,876</b>	<b>\$ 53,847,441</b>			
Call	11/2/2012	11/2/2016	Federal Agencies	FHLMC CALL NT	3134G2E1	\$ 25,000,000	1.60	\$ 100.33	\$ -	\$ 25,000,000			
Call	11/2/2012	11/2/2015	Federal Agencies	FARMER MAC CALL MTN	31315PVW6	34,000,000	0.74	100.00	-	34,000,000			
<b>Subtotals</b>						<b>\$ 59,000,000</b>	<b>0.89</b>	<b>\$ 81.03</b>	<b>\$ -</b>	<b>\$ 59,000,000</b>			
Maturity	11/2/2012	11/2/2012	Negotiable CDs	RBC YCD FLT 1ML+22	78009NBL9	\$ 50,000,000	0.43	\$ 100.00	\$ 18,697	\$ 50,018,697			
Maturity	11/16/2012	11/16/2012	Negotiable CDs	RBC YCD	78009NBU9	50,000,000	0.67	100.00	340,583	50,340,583			
<b>Subtotals</b>						<b>\$ 100,000,000</b>	<b>0.76</b>	<b>\$ 137.16</b>	<b>\$ 359,280</b>	<b>\$ 100,359,280</b>			
Interest	11/1/2012	5/1/2013	Federal Agencies	FECB FLT T-BILL+22	31331KM31	\$ 20,000,000	0.33	\$ 100.01	\$ 16,272	\$ 16,272			
Interest	11/1/2012	5/1/2015	Federal Agencies	FECB BD	3133EANJ3	50,000,000	0.50	99.89	125,000	125,000			
Interest	11/1/2012	11/1/2014	State/Local Agencies	NEW YORK CITY GO	64966DPC7	8,000,000	4.75	109.68	152,000	190,000			
Interest	11/1/2012	5/1/2013	Medium Term Notes	GE MTN	36962G3T9	17,648,000	4.80	103.70	327,076	423,552			
Interest	11/2/2012	11/2/2016	Federal Agencies	FHLMC CALL NT	3134G2E1	25,000,000	1.60	100.33	200,000	200,000			
Interest	11/2/2012	11/2/2015	Federal Agencies	FARMER MAC CALL MTN	31315PVW6	34,000,000	0.74	100.00	125,800	125,800			
Interest	11/2/2012	5/2/2017	Federal Agencies	FECB CALL NT	3133EAPB8	25,000,000	1.23	100.00	153,750	153,750			
Interest	11/3/2012	5/3/2017	Federal Agencies	FNMA CALL NT	3135G0KP7	75,000,000	1.75	101.14	656,250	656,250			
Interest	11/3/2012	5/1/2015	Federal Agencies	FARMER MAC FLT NT FF+26	31315PWJ4	50,000,000	0.47	100.00	53,208	53,208			
Interest	11/3/2012	4/9/2013	Public Time Deposits	FIRST NAT. BANK OF NOR.		240,000	0.50	100.00	304	304			
Interest	11/9/2012	5/9/2017	Federal Agencies	FHLB FIX-TO-FLOAT CALL N	3133794Y2	25,000,000	0.50	100.00	31,250	31,250			
Interest	11/12/2012	5/12/2017	Federal Agencies	FHLMC NT	3137EADF3	25,000,000	1.25	100.53	154,514	156,250			
Interest	11/14/2012	5/14/2015	Federal Agencies	FECB FLT NT 1ML+1	3133EAQCS	50,000,000	0.22	99.97	9,644	9,644			
Interest	11/15/2012	11/15/2016	Federal Agencies	FNMA NT	3135G0ES8	50,000,000	1.38	100.62	343,750	343,750			
Interest	11/16/2012	11/16/2015	Federal Agencies	FECB	31331J2S1	25,000,000	1.50	96.75	187,500	187,500			
Interest	11/18/2012	4/9/2013	Public Time Deposits	BANK OF SAN FRANCISCO PT		240,000	0.53	100.00	325	325			
Interest	11/21/2012	11/21/2014	Federal Agencies	FNMA FLT QTR FF+39	3136FTRF8	26,500,000	0.55	100.09	36,644	36,644			
Interest	11/23/2012	5/23/2017	Federal Agencies	FNMA STEP NT CALL	3136G0GW5	50,000,000	0.85	100.58	191,250	212,500			
Interest	11/27/2012	4/27/2015	Federal Agencies	FECB FLT NT 1ML+1.5	3133EAJP4	50,000,000	0.23	99.99	9,731	9,731			
Interest	11/30/2012	11/30/2015	U.S. Treasuries	US TSY NT	912828PJ3	50,000,000	1.38	99.04	343,750	343,750			
Interest	11/30/2012	11/30/2015	U.S. Treasuries	US TSY NT	912828PJ3	50,000,000	1.38	99.04	343,750	343,750			
Interest	11/30/2012	11/30/2015	U.S. Treasuries	US TSY NT	912828PJ3	50,000,000	1.38	97.08	343,750	343,750			
Interest	11/30/2012	11/30/2013	U.S. Treasuries	US TSY NT	912828JTB	25,000,000	2.00	103.41	250,000	250,000			
<b>Subtotals</b>						<b>\$ 784,628,000</b>	<b>1.14</b>	<b>\$ 100.09</b>	<b>\$ 1,055,517</b>	<b>\$ 2,121,979</b>			

Grand Totals	8	Purchases
	(3)	Sales
	(4)	Maturities / Calls
	1	Change in number of positions

# Non-Pooled Investments

As of November 30, 2012

Type of Investment State/Local Agencies	CUSIP 797712AD8	Issue Name SFRDA SOUTH BEACH HARBOR	Settle Date 1/20/12	Maturity Date 12/3/12	Duration 3.89	Coupon 3.50	Par Value \$ 5,690,000	Book Value \$ 5,690,000	Amortized Book Value \$ 5,690,000	Market Value \$ 5,690,000
Money Market Funds		CITI SWEEP	11/30/12	12/3/12	0.01	0.02	\$ 85,698,927	\$ 85,698,927	\$ 85,698,927	\$ 85,698,927
<b>Subtotals</b>					<b>0.01</b>	<b>0.02</b>	<b>\$ 85,698,927</b>	<b>\$ 85,698,927</b>	<b>\$ 85,698,927</b>	<b>\$ 85,698,927</b>
<b>Grand Totals</b>					<b>0.25</b>	<b>0.24</b>	<b>\$ 91,388,927</b>	<b>\$ 91,388,927</b>	<b>\$ 91,388,927</b>	<b>\$ 91,388,927</b>

## NON-POOLED FUNDS PORTFOLIO STATISTICS

(in \$ million)	Current Month		Prior Month	
	Fiscal YTD	November 2012	Fiscal YTD	October 2012
Average Daily Balance	\$ 91,385,899	\$ 91,388,877	\$ 91,385,172	\$ 91,387,405
Net Earnings	\$ 90,264	\$ 18,024	\$ 72,239	\$ 18,073
Earned Income Yield	0.24%	0.24%	0.24%	0.23%

**Note:** All non-pooled securities were inherited by the City and County of San Francisco as successor agency to the San Francisco Redevelopment Agency. Book value and amortized book value are derived from limited information received from the SFRDA and are subject to verification.



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INSTITUTE FOR JUSTICE

December 5, 2012

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Mayor Edwin Lee and Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 200 & 244  
San Francisco, Ca. 94102-4689

Re: Proposal to Amend City Ordinances Regarding Mobile Food Vendor Locations

Dear Mayor Lee and Board of Supervisors,

The Institute for Justice (“IJ”) is a public-interest law firm that for more than 20 years has advocated in the courts of law and public opinion for the right to earn an honest living. In 2010, IJ launched its National Street Vending Initiative to combat arbitrary and unconstitutional laws that stifle the rights of mobile food vendors. As part of the initiative, IJ has sued cities such as El Paso, Texas;<sup>1</sup> Hialeah, Florida; and Chicago, Illinois, to challenge laws that restrict vendors from operating within a certain distance of their brick-and-mortar competitors. IJ has also published extensively on the benefits that street vendors provide, the barriers that too often stand in their way, and how cities can cultivate vibrant food-truck scenes.<sup>2</sup>

The Board of Supervisors Land Use and Economic Development Committee is currently considering a proposal that would amend three separate ordinances that together govern how mobile food facilities operate in the City. This is a wonderful opportunity for San Francisco to seriously review its vending laws. The food-truck revolution is sweeping the country; mobile food vendors are no longer just selling hot dogs and burritos, but are developing stellar gourmet enterprises that are lauded by food connoisseurs across the country. Los Angeles currently holds the distinction as the best food-truck city in the country, but San Francisco could easily compete for this title.

Indeed, some of the amendments the Committee is considering would bring it closer to that goal. IJ heartily approves of allowing mobile food vendors to operate closer to public schools and medical facilities, and allowing vendors on university and college campuses that are located in residential districts.

<sup>1</sup> The city of El Paso quickly rescinded its anti-competitive vending laws in response to IJ’s lawsuit. See Victory for El Paso Mobile Food Vendors, April 26, 2011, <http://www.ij.org/el-paso-vending-release-4-26-11>.

<sup>2</sup> See, e.g., Robert Frommer & Bert Gall, *Food Truck Freedom: How to Build Better Food Truck Laws in Your City* (Institute for Justice Nov. 2012), available at <http://www.ij.org/food-truck-freedom>; Bert Gall and Lancee Kurab, *Seven Myths and Realities About Food Trucks: Why the Facts Support Food Truck Freedom* (Institute for Justice Nov. 2012), available at <http://www.ij.org/7-myths-and-realities>; Erin Norman, et al., *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending* (Institute for Justice July 2011), available at <http://www.ij.org/streets-of-dreams>.

It is disappointing, however, to see that the proposal would also strengthen restrictions on vending near restaurants. One proposed amendment would give the Department of Public Works (“DPW”) discretion to deny permits for mobile food vendors selling within 300 feet of *any* restaurant<sup>3</sup>, not just those selling “the same type of food,” as the law currently states.<sup>4</sup> Another amendment would flat out ban mobile food facilities from operating within 50 feet of all restaurants.<sup>5</sup> A third amendment would prevent mobile food vendors from selling more than three days per week at any single location.<sup>6</sup> These proposed amendments, as well as the City’s existing 300-foot proximity restriction, are not just bad policy; they’re unconstitutional.

Protecting established businesses from competition is an illegitimate use of government power under the U.S. and California Constitutions. The Ninth Circuit Court of Appeals, whose jurisdiction includes San Francisco, held as much in a lawsuit that challenged California’s licensing of pest exterminators. In ruling that the government cannot impose protectionist regulations that restrict individuals’ right to earn an honest living, the Ninth Circuit ruled “that mere economic protectionism for the sake of economic protectionism is irrational.” *Merrifield v. Lockyer*, 547 F.3d 978, 992 n.15 (9th Cir. 2008). Indeed, California courts have invoked this principle in striking down a Los Angeles restriction that prohibited food trucks from operating within 100 feet of any restaurant. *People v. Ala Carte Catering Co.*, 98 Cal. App. 3d Supp. 1, 9 (Cal. App. Dep’t Super. Ct. 1979). The proposed 50-foot proximity restriction that San Francisco is currently considering is similarly unconstitutional. The Committee should thus reject the proposed restriction, and set forth a new proposal that would repeal the existing 300-foot restriction.<sup>7</sup>

Repealing the existing 300-foot restriction would also help streamline San Francisco’s vending application process. As multiple applicants have told the Institute for Justice, applying for a vending location is an expensive, complicated, and time consuming process. If an applicant wants to sell in a new location, she must notify all businesses and residents within a 300-foot radius of her requested spot.<sup>8</sup> Anyone, including restaurants, is free to oppose the application, which then automatically triggers a full-fledged hearing before the Department of Public Works.<sup>9</sup> Even when the City does approve a permit, restaurants can still contest this approval with the “Board of Appeals.”<sup>10</sup> The whole process can take up to a year and requires thousands of dollars in fees.

So far, the City has limited dozens of vending permits and denied others altogether—often solely to protect restaurants from honest competition. Several mobile food vendors have lost years of savings after paying the application fees and then being denied all of their proposed

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<sup>3</sup> Proposed Ordinance to amend the San Francisco Pub. Works Code §184.88(d)(1).

<sup>4</sup> San Francisco Pub. Works. Code § 184.88(d).

<sup>5</sup> Proposed Ordinance to amend the San Francisco Pub. Works Code § 184.85(b)(4).

<sup>6</sup> Proposed Ordinance to amend the San Francisco Pub. Works Code §§ 184.84(j), 184.85(b)(6).

<sup>7</sup> To the extent the existing and proposed restrictions concerning the distance that mobile food vendors must keep from each other are based on an anti-competitive rationale, the Committee should remove these restrictions as well. San Francisco Pub. Works. Code § 184.88(d)(2); Proposed Ordinance to amend the San Francisco Pub. Works Code §184.88(d)(1).

<sup>8</sup> San Francisco Pub. Works. Code § 184.88.

<sup>9</sup> *Id.* § 184.88(b).

<sup>10</sup> *Id.*

locations. Because of the risky application process, many are reluctant to apply for a vending license or expand their existing businesses.

This complex application process is undoubtedly burdensome on the City as well. The application laws even recently emboldened a restaurant association to sue the City along with a newly permitted coffee cart vendor.<sup>11</sup> In the association's view, the City erred in granting the vendor a permit because she would be competing within 300 feet of nearby restaurants. This suit is ongoing. Repealing the existing 300-foot proximity restriction would not only free vendors' businesses, but it would also ease the burden on DPW staff and discourage further suits against the City.

Additionally, loosening these restrictions would benefit consumers and the local economy. Vending puts people to work, provides a way out of poverty, and creates opportunities for self-sufficiency.<sup>12</sup> As the *Los Angeles Times* recently reported, mobile food vendors provide entry-level opportunities, allowing entrepreneurs to test ideas and accumulate capital needed to climb the economic ladder and move on to bigger projects, including opening brick-and-mortar restaurants.<sup>13</sup> Vendors also contribute to the City's coffers by paying sales taxes, payroll taxes, and property taxes through their commissary rent.

Moreover, as the Institute for Justice notes in *Seven Myths and Realities About Food Trucks*, the presence of vendors actually boosts local businesses. Their creatively decorated vehicles and delicious recipes encourage people to come out onto the streets, increasing foot traffic for everyone—including restaurants. George Harris, the owner of an award-winning Las Vegas restaurant called Mundo, recently stated that food trucks help his business for this very reason.<sup>14</sup>

The Board of Supervisors should remove the 50-foot proximity restriction from the current proposal and repeal the existing 300-foot restriction. It should also remove the proposed amendment that would limit mobile food vendors to three days at each of their locations. By rejecting protectionist and unconstitutional laws, the Board can allow San Francisco's vending industry to achieve its full potential, open economic opportunity to all its citizens, and make San Francisco a world-class destination for street food.

Please do not hesitate to contact me at (703) 682-9320 or [esmith@ij.org](mailto:esmith@ij.org) if you have any questions or if I can provide more information. Thank you for your time.

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<sup>11</sup> *The Fisherman's Wharf Community Benefit District v. City of San Francisco and ShaSha Lewis*, No. CPF-12-512247, San Francisco Superior Court (2012).

<sup>12</sup> See Erin Norman, et al. *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending* (Institute for Justice July 2011), available at <http://www.ij.org/streets-of-dreams>.

<sup>13</sup> Tiffany Hsu, *Food trucks as a vehicle to sit-down restaurant success*, *Los Angeles Times*, Oct. 6, 2011, available at <http://articles.latimes.com/2011/oct/06/business/la-fi-food-truck-restaurants-20111006>.

<sup>14</sup> Bert Gall and Lancee Kurab, *Seven Myths and Realities About Food Trucks: Why the Facts Support Food Truck Freedom 1-2* (Institute for Justice Nov. 2012), available at <http://www.ij.org/7-myths-and-realities>.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erica Smith', written in a cursive style.

Erica Smith\*  
Attorney at the Institute for Justice

*\*This attorney is only a member of the NY Bar.*

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cpase

APPLICATION No: \_\_\_\_\_

**NOTICE OF APPLICATION**

This is to notify you that TIJUANA EXPRESS, LLC, a Limited Liability Company organized and existing under the Laws of the State of California, has filed an application with the Public Utilities Commission (PUC), under § 1031, et. seq., of the Public Utilities Code, for authority to operate an on-call, county-to-county, passenger stage service transporting passengers and their baggage and "unaccompanied baggage express" between points in the counties of San Diego, Imperial, Orange, Los Angeles, San Bernardino, Riverside, Kern, Monterey, Tulare, Fresno, Santa Clara, San Mateo, San Francisco, Alameda and Sacramento.

Applicant's primary customer base includes but is not limited to Spanish speaking business travelers, migrant workers and families traveling between the counties described above.

To keep its fares reasonable and competitive, Applicant has also requested Commission approval to establish a zone-of-rate-freedom ("ZORF"=*a price range within which Application may request the PUC for fare adjustment with 10 day notice*) of plus-or-minus five dollars (±\$5) over fares less than twenty dollars (<\$20), or plus-or-minus ten dollars (±\$10) over fares greater than \$20 and less than \$40; or plus-or-minus twenty dollars (±\$20) over fares forty dollars or greater (≥\$40), in accordance with § 454.2, et. seq., of the California Public Utilities Code.

There will be no adverse effect upon any other carrier, nor upon the public, resulting from granting the application. All drivers will be highly motivated professionals, who are drug-free, bilingual [in "English and Spanish"], "Homeland Security" cleared, with full knowledge of safety rules and regulations of the PUC, the California Highway Patrol, the airport authorities and the US Government. Applicant will use fleet of ten 14-passenger vans, fully insured, air-conditioned and safe, for the proposed service: more equipment will be added the member-owners as needed.

If you would like to have a copy of the application, please make your request in writing to:

TIJUANA EXPRESS, LLC  
Attn: Gamboa Salvador Ledesma, Member/CEO  
9511 SAN VINCENTE AVE.  
SOUTH GATE, CA 90280  
(213) 259-6293

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GAMBOA LEDESMA, Member/CEO, [Signature] dated 30 day  
of October, 2012.



# SAN FRANCISCO PLANNING DEPARTMENT

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Alisa, Joy - cc

## Notice of Preparation of an Environmental Impact Report

**Date:** December 12, 2012  
**Case No.:** 2011.1122E  
**Project Title:** 75 Howard Street Project  
**Zoning:** C-3-O(SD) - Downtown Office (Special Development)  
 200-S Height and Bulk District  
**Block/Lot:** Block 3741/ Lot 31, Block 3742/ Lot 12, and a portion of Block 3741 / Lot 35  
**Lot Size:** 20,595 square feet (approximately 0.48 acres)  
**Project Sponsor:** PPF Paramount Group 75 Howard Garage, LLP  
**Lead Agency:** San Francisco Planning Department  
**Staff Contact:** Don Lewis - (415) 575-9095  
 don.lewis@sfgov.org

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

A Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the above-referenced project, described below, has been issued by the Planning Department. The NOP/Initial Study is either attached or is available upon request from **Don Lewis**, whom you may reach at **(415) 575-9095** or at the address above. This notice is also available online at <http://tinyurl.com/sfceqadocs>. This notice is being sent to you because you have been identified as potentially having an interest in the project.

### PROJECT DESCRIPTION

The 75 Howard Street Project site is located on the south side of Howard Street at the intersection of Howard and Stuart Streets, in San Francisco's Financial District, and within the *Transit Center District Plan* (TCDP) area. The project site consists of three lots and a portion of street right-of-way: Assessor's Block 3741 / Lot 31, which is owned by PPF Paramount, 75 Howard Garage, L.P. (the project sponsor); a portion of Assessor's Block 3741 / Lot 35 (known as Parcel 3), which is owned by the Gap, Inc.; and Assessor's Block 3742 / Lot 12 and a portion of the Stuart Street right-of-way south of Howard Street, which is owned by the City and County of San Francisco under the jurisdiction of the Department of Public Works (DPW). Block 3741 / Lot 31, together with Parcel 3, include approximately 20,931 sq. ft. and comprise the proposed 75 Howard Street building site, which is currently developed with the existing 75 Howard Garage, a 550-space, 91-foot-tall, eight-level commercial parking garage structure built in 1976.

PPF Paramount Group, 75 Howard Garage, LLP proposes demolition of the existing 75 Howard Garage and construction, in its place, of an approximately 31-story, 350-foot-tall, 432,253-gross-square-foot (gsf) residential, high-rise tower containing 186 market rate units and approximately 5,658 gross square feet (gsf) of retail use. The ground and second floors of the proposed new building would include a restaurant, a café, the residential lobby, and services and amenities for the residents. The proposed project would contain 175 accessory off-street parking spaces for residential units in a 26,701-gsf parking garage located on two below-grade levels accessed from Howard Street. The proposed project also includes landscaping and paving improvements, resulting in a new 4,780-sq.-ft. landscaped, publicly accessible open space at Block 3742 / Lot 12 and a portion of the Stuart Street right-of-way south of Howard Street. On-street parking along the segment of Stuart Street south of Howard Street would be eliminated. This segment of Stuart Street would be narrowed, and the turnaround bulb at the southern terminus of Stuart Street would be eliminated. The proposed project also includes two variants as options that the project sponsor may choose to implement. These variants include a proposed Public Parking Variant and a proposed Residential / Hotel Mixed Use Variant. The proposed Public Parking Variant would provide an additional 96 non-accessory public off-street parking spaces, for a total of 271 parking spaces, to partially offset the 550 public spaces lost by demolition of the 75 Howard Garage. All 271 parking spaces would be located in stacked mechanical spaces on Basement Level 2 within the proposed 26,701-gsf parking garage. The proposed Residential / Hotel Mixed Use Variant would provide a mix of residential units and hotel rooms within the high-rise tower. Hotel rooms would be located on floors 3 through 7 and floors 10 through 12, and residential

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units would be located on floors 13 through 31. This variant would also include space on floors 8 and 9 for hotel registration, a hotel restaurant, spa services, and other hotel amenity space. Under this variant, approximately 109 residential units and 82 hotel rooms with associated hotel amenity space would be constructed. As under the proposed project, the Residential / Hotel Mixed Use Variant would include a lobby, restaurant, and amenity space on the first and second floors of the high-rise tower. Parking under this variant would include a total of 271 stacked parking spaces on Basement Level 2 (the same total number of parking spaces as under the Public Parking Variant) within the 26,701-gsf parking garage area.

Alternatives to the proposed project that could reduce or eliminate significant environmental effects will be analyzed in the EIR. This will include the No Project Alternative, a Code Compliant Alternative, and a Reduced Height Alternative. The EIR will include a discussion of any alternatives that were considered but rejected and the basis for their rejection, and will identify an Environmentally Superior Alternative.

The proposed project and variants would require: amending the Planning Code Zoning Map for Height District Reclassification and amending the General Plan to revise Map 5 of the *Downtown Area Plan*; approving a Section 309 Determination of Compliance to allow for modifications to Planning Code Section 151.1 (within C-3 Districts) for off-street accessory parking, for modifications to Planning Code Section 134 (within C-3 Districts) for a rear yard setback, and for modifications to Planning Code Section 270 for specified bulk controls for the "lower tower" and "upper tower" portions of the building; approving a Conditional Use Authorization, pursuant to *Planning Code* Sections 158 and 303, for the non-accessory parking garage use proposed as part of the proposed project and project variants; approving a Conditional Use Authorization, pursuant to Planning Code Sections 216(b)(i) and 303, for a hotel containing fewer than 200 rooms; granting a Variance, per Planning Code Section 140, as the proposed project and project variants would not meet the minimum requirements for area and horizontal dimensions; and granting a Variance, per Planning Code Section 145.1, as the proposed project and variants would exceed allowable driveway width for parking and loading access.

**FINDING**

**This project may have a significant effect on the environment, and an Environmental Impact Report is required.** This determination is based upon the criteria of the State CEQA Guidelines, § 15063 (Initial Study), § 15064 (Determining Significant Effect), and § 15065 (Mandatory Findings of Significance). The purpose of the EIR is to provide information about potential significant physical environmental effects of the proposed project, to identify possible ways to minimize the significant effects, and to describe and analyze possible alternatives to the proposed project. Preparation of an NOP and an EIR does not indicate a decision by the City to approve or disapprove the proposed project. Prior to making any such decision, the decision-makers must review and consider the information contained in the EIR.

**PUBLIC COMMENT PROCESS**

Written comments on the scope and content of the environmental impact analysis will be accepted until 5:00 p.m. on **January 11, 2013**. Written comments should be sent to Bill Wycko, San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA 94103. If you work for a Responsible or Trustee Agency, we need to know the views of your agency regarding the scope and content of the environmental information that is relevant to your agency's statutory responsibilities in connection with the proposed project. Your agency may need to use the EIR when considering a permit or other approval for this project. We will also need the name of the contact person for your agency. If you have questions concerning environmental review of the proposed project, please contact **Don Lewis** at (415) 575-9095 or don.lewis@sfgov.org.

*December 11, 2012*

Date



Bill Wycko

Environmental Review Officer



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PLANNING DEPARTMENT**

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Land Use Clerk  
Leg. Deputy  
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December 3, 2012

Ms. Angela Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
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Re: Transmittal of Planning Department Case Number 2012.0543T:  
Code Corrections Ordinance

BOS File No: \_\_\_\_\_ (pending)  
Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo,

On October 18, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the initiation of a proposed Ordinance;

On November 29, 2012 the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance;

The proposed Ordinance initiated by the Planning Commission would amend the Planning Code to Ordinance amending the San Francisco Planning Code to (1) correct clerical errors, make language revisions and updates; (2) revise graphics to be consistent with text; (3) amend fees to be charged for certain kinds of applications and appeals; (4) adopt findings, including findings under the California Environmental Quality Act, Planning Code Section 302 findings, and findings of consistency with the General Plan and Planning Code Section 101.1.

The proposed changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

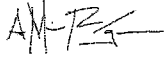
At the November 29, hearing, the Commission voted to recommend approval with modifications of the proposed Ordinance. I have contacted the City Attorney's office to request that the Ordinance be modified per the Commission's request. Please find attached documents relating to the Commission's action. The original documents have been sent via inter-office mail.

Transmittal Materials  
Hearing Date: November 29, 2012

Case No. No 2012.0543T  
Planning Code Corrections

If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Digitally signed by anmarie rodgers  
DN: dc=org, dc=sfgov,  
dc=cityplanning, ou=CityPlanning,  
ou=Directors Office, cn=anmarie  
rodgers,  
email=anmarie.rodgers@sfgov.org  
Date: 2012.12.03 11:47:02 -0800

AnMarie Rodgers  
Manager of Legislative Affairs

cc:

Mayor's Office, Jason Elliot  
City Attorney, Kate Stacy  
City Attorney, Jon Givner

Attachments (one copy of the following):

- Exhibit A: Proposed changes to the Draft Ordinance\* since the Commission Initiation
- Exhibit B: Draft Ordinance as reviewed by the Commission
- Exhibit C: Guide to the Draft Ordinance
- Exhibit D: Commission Resolution Number 18750

(HARD COPY-RED-LINE TO BE  
DELIVERED BY CITY ATTY)

## ATTACHMENT A: NEW CORRECTIONS IDENTIFIED AFTER INITIATION

CHANGES TO SECTIONS 156 AND 424.6.2: THESE TWO SECTIONS NEED TO BE AMENDED IN RESPONSE TO THE RECENTLY ADOPTED TRANSIT CENTER DISTRICT PLAN [BOARD FILE NO. 120665, ORDINANCE NO. 182-12]. THE ONLY CHANGES WOULD BE RENUMBERING CONTROLS CONSISTENT WITH STANDARD ORGANIZATION OF THE PLANNING CODE.

### SEC. 156. PARKING LOTS.

....

(l) The conditions of approval for the extension an existing parking lot in the C-3-O(SD) District shall include the following:

~~(A)~~ (1) a minimum of one parking space for car sharing vehicles meeting all of the requirements in Section 166 for every 20 spaces in said lot;

~~(B)~~ (2) a minimum of two Class 2 bicycle parking spaces for every 50 linear feet of frontage in a highly visible area on the property adjacent to a public sidewalk or shall attain approval from the appropriate City agencies to install such bicycle parking on a public sidewalk on the same block;

~~(C)~~ (3) interior landscaping compliant with the requirements in subsection (j) above, provided that if a site permit has been approved by the Planning Department for construction of building on the subject lot that would replace the parking lot in less than 2 years, the trees may be planted in movable planters and the lot need not provide permeable surfaces described in subsection (j).

### SEC. 424.6.2. APPLICATION OF TRANSIT CENTER DISTRICT OPEN SPACE IMPACT FEE.

.....

(d) Option for In-Kind Provision of Community Improvements and Fee Credits. Project sponsors may propose to directly provide community improvements to the City. In such a case, the City may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver for the Transit Center District Open Space Impact Fee from the Planning Commission, subject to the following rules and requirements:

(1) Approval Criteria. The City shall not enter into an In-Kind Agreement unless the proposed in-kind improvements meet an identified community need as analyzed in the Transit Center District Plan Implementation Program Document and where they substitute for improvements that could be provided by the Transit Center District Open Space Fund (as described in Section 424.6.4). The City may reject in-kind improvements if they are not consistent with the priorities identified in the Transit Center District Plan, by the Interagency Plan Implementation Committee (see Chapter 36 of the Administrative Code), or other prioritization processes related to Transit Center District improvements programming. No physical improvement or provision of space otherwise required by the Planning Code or any other City Code shall be eligible for consideration as part of this In-Kind Improvements Agreement.

For a development project on Assessor's Block 3720 Lot 009, an In-Kind Agreement may be approved which credits the project for public open space improvements constructed by either the sponsor of the development project or by the Transbay Joint Powers Authority, in accordance with the Transit Center District Plan Implementation Program Document.

(2) Valuation. The Director of Planning shall determine the appropriate value

of the proposed in-kind improvements. For the purposes of calculating the total value, the project sponsor shall provide the Planning Department with a cost estimate for the proposed in-kind improvement(s) from two independent sources or, if relevant, real estate appraisers. A detailed site-specific cost estimate for a planned improvement prepared by the City or the Transbay Joint Powers Authority may satisfy the requirement for cost estimates provided that the estimate is indexed to current cost of construction.

(3) Content of the In-Kind Improvements Agreement. The In-Kind Improvements Agreement shall include at least the following items:

~~(i)~~ (A) A description of the type and timeline of the proposed in-kind improvements.

~~(ii)~~ (B) The appropriate value of the proposed in-kind improvement, as determined in subsection (2) above.

~~(iii)~~ (C) The legal remedies in the case of failure by the project sponsor to provide the in-kind improvements according to the specified timeline and terms in the agreement. Such remedies shall include the method by which the City will calculate accrued interest.

CHANGES TO SECTION 227: THIS SECTION NEEDS TO BE AMENDED IN RESPONSE TO THE RECENTLY ADOPTED TRANSIT CENTER DISTRICT PLAN [BOARD FILE NO. 120665, ORDINANCE NO. 182-12]. THE ONLY CHANGE WOULD BE TO INSERT THE NEW DISTRICT C-3-O (SD) AND USING THE SAME USE CONTROLS AS THOSE USED BY C-3-0. THIS CHANGE IS CONSISTENT WITH THE EXPLANATORY MATERIALS THAT WAS BEFORE THE COMMISSION, BUT DID NOT MAKE IT INTO THE PROPOSED ORDINANCE. IN ADDITION, THIS CHART SHOWS THE OTHER CHANGE TO THE TEXT OF SUBSECTION (V) OF 227 WHICH WAS INITIATED BY THE PLANNING COMMISSION.

SEC. 227. OTHER USES.

C-1	C-2	C-3-O	<u>C-3-Q</u> <u>(S</u> <u>D)</u>	C-3-R	C-3-G	C-3-S	C-M	M-1	M-2	P-D	P-D	P-D	P-D	
P*	P*					P	P	P	P	P	P	P	P	(a) Greenhouse.
P*	P*	P	<u>P</u>	P	P	P	P	P	P	P	P	P	P	(b) Urban Agriculture.
	C				C	C	P	P	P	P		P	P	(c) Mortuary establishment, including retail establishments that predominantly sell or offer for sale caskets, tombstones, or other funerary goods.
P	P	P	<u>P</u>	P	P	P	P	P	P	C	C	C	C	(d) Public structure or use of a nonindustrial character, when in conformity with the General Plan. Such structure

															or use shall not include a storage yard, incinerator, machine shop, garage or similar use.
P	P*	C	<u>C</u>	C	P	P	P	P	P	P	P	C	P		(e) Utility installation, excluding Internet Services Exchange (see Section 227(r)); public service facility, excluding service yard; provided that operating requirements necessitate location within the district.
C	C*	C	<u>C</u>	C	C	C	C	C	C	C	C		C		(f) Public transportation facility, whether public or privately owned or operated, when in conformity with the General Plan, and which does not require approval of the Board of Supervisors under other provisions of law, and which includes:
															(1) Off-street passenger terminal facilities for mass













C	C	C	<u>C</u>	C	C	C	C	C	C	C	C	C	C	(r) Internet Services Exchange as defined in Section 209.6(c).
P	P	P	<u>P</u>	P	P	P	P	P	P	P	P	P	P	(s) Fringe financial services, as defined in Section 249.35, and subject to the restrictions set forth in Section 249.35, including, but not limited to, that no new fringe financial service shall be located within a ¼ miles of an existing fringe financial service.

													ntrol of s of Se c. 12 1. 8 8	
N A	N A	N A	<u>NA</u>	N A	N A	NA	NA	N A	NA	P	P	N P	N P	(t) Small Enterprise Workspace (S.E.W.). An S.E.W. is a single building that is comprised of discrete workspace units which are independently accessed from building common areas.  (1) The S.E.W. building must meet the following additional requirements:  (A) Each unit may contain only uses principally or conditionally permitted in the subject zoning district, or office uses (as defined in







															the change in floor area. (2) S.E.W. units may be established only in new buildings or in buildings for which a first certificate of occupancy or completion was issued after the effective date of this Section. (3) Where permitted, S.E.W. Buildings are exempt from the controls in Sec. 230 limiting demolition of industrial buildings.
N A	N A	N A	<u>NA</u>	N A	N A	NA	NA	N A	NA	P. su bje ct to co ntr ols in Se c. 89	P. su bj ec t to co ntr ols in Se c. 89	N P	N P	(u) Integrated PDR, as defined in Sec. 890.49.	

										0. 49	c. 89			
C	C	C	<u>C</u>	C	C	C	C	C	C			C	C	(v) Tobacco Paraphernalia Establishments, defined as retail uses where more than 10% of the square footage of occupied floor area, as defined in Section 102.10, or more than 10 linear feet of display area projected to the floor, whichever is less, is dedicated to the sale, distribution, delivery, furnishing or marketing of Tobacco Paraphernalia from one person to another. <i>For purposes of Sections 719, 719.1, 786, 723 and 723.1 of this Code, Tobacco Paraphernalia Establishments shall mean retail uses where Tobacco Paraphernalia is sold, distributed, delivered, furnished</i>





uncontrolled may adversely affect the character of certain Neighborhood Commercial Districts.

The purposes and provisions set forth in Sections 781.1 through 781.6, *and Sections 783-786, and Sections 249.35-249.99* of this Code shall apply respectively within these districts. The boundaries of the districts are as shown on the Zoning Map as referred to in Section 105 of this Code, subject to the provisions of that Section.

<b>Neighborhood Commercial Restricted Use Subdistricts</b>	<b>Section Number</b>
Taraval Street Restaurant Subdistrict	§ 781.1
Irving Street Restaurant Subdistrict	§ 781.2
<i>Ocean Avenue Fast-Food Subdistrict</i>	<i>§ 781.3</i>
Geary Boulevard Formula Retail Pet-Supply Store and Formula Retail Eating and Drinking Subdistrict	§ 781.4
Mission Street Formula Retail Restaurant Subdistrict	§ 781.5
North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict	§ 781.6
Chestnut Street Financial	§ 781.7
Haight Street Alcohol Restricted Use District	§ 781.9
Divisadero Street Alcohol Restricted Use District	§ 783
Lower Haight Street Alcohol Restricted Use District	§ 784
Excelsior Alcohol Special Use District	§ 785
Lower Haight Tobacco Paraphernalia Restricted Use District	§ 786

<i>Fringe Financial Service Restricted Use District</i>	<u>§ 249.35</u>
<i>Mission Alcohol Restricted Use District</i>	<u>§ 249.60 (formerly 781.8)</u>
<i>Third Street Alcohol Restricted Use District</i>	<u>§ 249.62 (formerly 782)</u>

CHANGES TO SECTIONS 740 ET. SEQ.: THE ADOPTED ORDINANCE NUMBER 175-12 CREATED THE IRVING STREET NCD (AMONG OTHER CHANGES). THIS ORDINANCE ESTABLISHED THAT FORMULA RETAIL RESTAURANTS AND LIMITED-RESTAURANTS WOULD BE "NOT PERMITTED" WHILE OTHER, NON-FORMULA RETAIL RESTAURANTS AND LIMITED-RESTAURANTS WOULD BE "PERMITTED". THESE CONTROLS ARE INTENDED TO APPLY TO THE "IRVING STREET RESTAURANT SUBDISTRICT" WHICH IS THE SAME AREA AS THE IRVING STREET NC-2. THEREFORE, THIS CONTROL DOES NOT NEED TO BE LISTED TWICE.

**SEC. 740. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

SPECIFIC PROVISIONS FOR IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT

<i>Article 7 Code Section</i>	<i>Other Code Section</i>	<i>Zoning Controls</i>

<p><del>§ 740.43</del>  <del>§ 740.44</del></p>	<p><del>§ 703.3</del></p>	<p><del>Restaurants and Limited-Restaurants are P; Formula-Retail Restaurants and Formula-Retail Limited-Restaurants are NP.</del></p>
<p>§ 740.43  § 740.44</p>	<p>§ 781.2  <u>§ 703.3</u></p>	<p>IRVING STREET RESTAURANT SUBDISTRICT</p> <p><b>Boundaries:</b> Applicable <u>to only for the portion of the</u> Irving Street <u>NC-2 Neighborhood Commercial District between 19th and 27th Avenues</u> as mapped on Sectional Map SU05.</p> <p><b>Controls:</b> Restaurants are <u>PC</u>; Formula Retail restaurants and Limited-Restaurant are NP.</p>



Item No.	Item title	Section(s) amended	Description
1	recent ordinance	102.5, 155, 163	Regarding Section 102.5, Ordinance 176-12 deleted a listing of specific districts which tends to become obsolete. The next day a separate Ordinance 182-12 reinserted the obsolete references. This change would again delete the listing of districts and reference the reader to a current list. Ordinance 182-12 also created renumbering issues in Sections 155 and 163 which are being corrected with this proposal.
2	table labeling error	121.2	The tables in 121.2(a) and (b) are related to USE size limits in NCDs. The tables, however, are labeled "LOT size limits".
3	landscaping	132	Section 132(i)(2) allows the ZA to modify "additional landscaping requirements". The proposal would change this to "landscaping". Section 132(g) currently neglects to specify which permitted obstructions should not be counted towards the calculation of required permeable surface. This change specifies that permeable surface calculations need not be based on the area occupied by egress stairs, chimneys, and underground garages.
4	illustration of process for "rear yard averaging"	134	The current figure illustrating rear yard averaging is wrong. The proposal inserts the proper illustration.
5	Section 136(c)12	136	New leg. allowing awnings for LCUs has been added to 136(c)12 with reference to PDR districts.
6	garage door graphic	144	Section 144 was amended on 47/2011 (BF 101053), such that the previous limit for garage entrances to "30%" was replaced with "1/3" of the width of the lot. This is not reflected in the illustration accompanying Section 144.
7	And vs. Or in 151.1	151.1	References to properties in the SB-DTR AND (emphasis added) C-3. Elsewhere in 151.1 there is discussion of properties in the C-3 AND the Van Ness SUD. In the former, it is thought that the intention is to apply to properties in EITHER ONE of the two districts, while in the latter, it is thought that the intention is to apply to properties that are in BOTH districts. The proposal would amend the former to reflect the intent.
8	added "C" in table as it was omitted	151.1	In multiple places the table lists the "P" amount of parking, it then follows with what would be "conditional" but does not include the "C".
9	Section 156	156	156 refers to Section 143, which is now Section 428- the Street Tree In-Lieu fee. The reference in 156(k) should be to the Street Tree requirement in 138.1
10	outdated reference	171	Section 171 is currently written as "A Permit of Occupancy shall be issued by the Department of Public Works (Central Permit Bureau)..." This section should be updated to state "A Permit of Occupancy shall be issued by the Department of Building Inspection..."
11	error and structure	176	176(c)(1) Paragraph 4 Line 3 has an error as follows: "If the responsible party elects to request a Zoning Administrator's hearing, the request for hearing must be in writing and submitted to the Zoning Administrator prior to (begin delete)expiration of the time for appeal of the Zoning Administrator's determination to the Board of Appeals (end delete) (begin add new text) the expiration date of the Notice of Violation and Penalty (end add).
12	classes of use districts	201	Cross-references are added. SUD and RUD list should be updated. Headers are amended for clarity. New Sunset Districts have been added to this list.
13	incorrect number of RC districts	206.3	Ord. 63-11 deleted RC-1 and RC-2 which are no longer in use. However, the description "four separate districts" was erroneously retained. Now there are only two districts RC-3 and RC-4.
14	table for commercial establishments in R Districts	209.8	Two changes: "principle" is used where "principal" is the intent and (j) was inadvertently not numbered.
15	Commercial Uses in R Districts	209.9	This section refers you to RC-1 Zoning; however, RC-1 Zoning has been removed. The proposal uses the language from the pending Chiu Ordinance to fix this.
16	209.9(e) (Other Uses)	209.9	209.9(e) (Other Uses) allows RC-1 Uses in Landmarks in Residential Districts by CU. The RC-1 and RC-2 Districts were eliminated. These districts should be eliminated in the chart. The pending Chiu Ordinance amends references within this table which rely on permitted uses for RC-1 to now reference NC-1. This pending change has also been included here.
17	incorrect reference	212	Section 212 references Sec. 102.31 for the mobile food facilities definition, this should be 102.34. The proposal also removes references to the defunct C-1 district, and fixes renumbering issues.

Item No.	Item title	Section(s) amended	Description
18	incorrect reference	212	Section 212(c)(3)(A) and (B) should reference Section 221 (assembly & entertainment) instead of Code Section 227 (other uses). Clarify ambiguous language.
19	Reference to an Ordinance which is now codified.	219	The proposal removes "see ordinance 99-8" and replaces it with "subject to limitations of section 121.8". For clarity and ease of use this is now referenced directly.
20	Office uses in landmark buildings	219	Section 219(e) seems to indicate that office uses are NP in designated historic structures except in PDR 1-G and PDR 1-D districts. This is a mistake -- the intention was to allow office uses w/in PDR 1 G and D districts <i>only</i> in designated landmark buildings, but not to limit the use in other districts.
21	Executive Park SUD	249-54	The ordinance reference was left blank for the Clerk to fill in upon adoption. This did not happen. This proposal adds the proper number of ordinance.
22	redundant section	249.63	Sections 249.63 and 249.61 are redundant. The proposal would keep Section 249.61 because it is listed under 702.4 special use districts.
23	incorporate other controls that are relevant.	249.65	First, use size controls that still apply include 121.8. Second Section 231A was renumbered as Section 230 via Ordinance 196-11.
24	Height Controls	261	The height diagram under Sec 261 does not match the height description stated under Sec 102.12. Sec. 102.12 states that height measurement is taken from the top of curb and is held for the first 10 feet of the lot and then the height limit may increase with the slope of the lot. The diagram under Sec 261 shows that the height limit may increase immediately with the slope of the lot (and is not held to the height limit for the first 10 feet of the lot depth). The proposal has retrieved the previous illustration for reinsertion into the Code.
25	Height Exceptions	263.2	The Code Section for 263.20 currently has the incorrect illustration. The illustration in 263.20 SHOULD actually be placed in 263.21. <input type="checkbox"/>
26	Measurement of Bulk Limits	270	In Section 270 (Bulk Limits: Measurement) Chart B refers to refers to Chart C to determine the Upper Tower Bulk Reduction based upon the square footage of the Lower Tower Average floor plate. Unfortunate Chart C has been deleted and replaced with the Rincon Hill Chart, now named Chart C. The proposal places the proper illustrations from prior Code.
27	missing text	303	Section 303(c)(5)(A) is void of text in the on-line Code. The proper text is proposed to be added back.
28	disaggregation of general advertising signs through CU	303(l)(3)	This codifies a 2010 Zoning Administrator interpretation which clarified that a single general advertising sign may be 'disaggregated' into multiple smaller signs through the existing Conditional Use process for general advertising sign relocations.
29	Planned Unit Developments	304	The criteria listed as applicable for PUDs (Section 304(d)(10)) includes a reference to Street Trees per the requirements of Section 143(f). This section has been replaced/reference should be to 138.1.
30	loading requirements	309	Section 309(a)(8) references off-street loading requirements in Section 161(h), but the correct reference would be to section 161(i)
31	date inserted by codifier	309.2	The date was inadvertently left blank in Ordinance No. 144-11
32	notice requirements out of date with adopted Commission policy	312	Section 312 should be amended to include East SOMA RED Districts per a Planning Commission policy dated July 9, 2009.
33	fee adjustment	350, 355, and Administrative Code 31.22	Simplify the definition of which fees are indexed annually by the Controller in Section 350 and Administrative Code Section 31.22. This change would not change which fees are indexed nor the process for index updates but instead would simplify the listing to ensure that there are no omissions. Updates the current indexed fee amount into Section 352.
34	fee for appeal of HPC disapproval actions	352	While Sections 1004.4, 1006, and 1006.7 establish that certain HPC disapproval actions may be appealed to the Board of Supervisors, no fee amount was specified. This update sets the fee for HPC appeals at the same amount specified for appeals of Planning Commission decisions.
35	permit applications	355	Fixed sentence structure.
36	typo in header on on-line code	415.5	This Section currently reads: SEC. 415.5. - COMPLIANCE THROUGH PROVISION OF ON-SITE AFFORDABLE HOUSING. AFFORDABLE HOUSING FEE It should read: SEC. 415.5. - AFFORDABLE HOUSING FEE
37	table formatt errors	423.2	The tables are missing the headings.

Item No.	Item title	Section(s) amended	Description
38	607(d)(2) (Moving Parts for Signs)	607	607(d)(2) (Moving Parts) exempts "signs located within 200 feet of the park known as Union Square, and visible from said park..". This line should be deleted. It is a remnant of the Union Square Special Sign District which was eliminated in the late 80s-early 90s. From the 1960s until that time, the City wanted Union Square to be Times Square West. The proposal would delete (d)(2)-- it was likely inappropriately copied from 607(a).
39	607(g) (1) (Height and Extension Above Roofline)	607	607(g) (1) (Height and Extension Above Roofline) only references C and M districts but (g)(2) references C, M and PDR districts. 607(g) (1) should also reference PDR districts. This was omitted in error.
40	Section 608.13 - Rincon Hill SSD Error	608.13	Section 608.13 defines the Rincon Hill SSD.  The Rincon Hill Downtown Residential District is also known as the "RH-DTR" and is "generally bounded by Folsom Street, The Embarcadero, Bryant Street, and Essex Street." The RH-DTR used to be included in Section 249.1, when it was the Rincon Hill SUD; however, Section 249.1 was changed to the Folsom/Main Residential SUD in 2005 (Ord. 217-05). The reference to Section 249.1 and Sectional Map 1Sub should be deleted from Section 608.13 and it should only refer to the RH-DTR.
41	naming of NC Restricted Use Subdistricts	702.3	BF 110592 Inner, Outer Clement & Geary NC Controls. This Ordinance amended the name of a restricted use district from the "Geary Boulevard Fast-Food Subdistrict" to the "Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict".  This RUD is currently referenced in Section SEC. 702.3. NEIGHBORHOOD COMMERCIAL RESTRICTED USE SUBDISTRICTS, however, no conforming amendments were made to change its name within 702.3.
42	error in NCD description	714.1	Section 714.1 of the Planning Code re Broadway Neighborhood commercial District. The second line of the description says "along Broadway from west of Columbus Avenue to Osgood Place.....". This is incorrect, "west" should be "east".
43	Castro St NCD Use Size	715.21	use size P up to 1,999, C #2,000. The #sign is not connected to any additional provision and therefore unnecessary & confusing.
44	Valencia NCT	726	Section 726 titles the Section as a conventional NCD whereas 726.1 and other Sections title the District as an NCT. References to NCD should be replaced.
45	error from Ordinance 140-19	727.13	Sections 727.13 and 238 lists section 731.13 for street frontage. This error is currently noted in on-line code but needs this ordinance to make final fix.
46	errors in Ordinance 140-22	730	730 251 - 254 sec. 730.1-730.9 are not properly numbered.
47	different specific provision for fringe financial services.	730.68	Changed to be like other specific provisions for fringe financial services
48	controls heading misplaced	732	This proposal would move control heading to its proper place above controls by story but below other controls.
49	Glen Park- proper reference for 5' height bonus	738.1	In this table, the Height and Bulk limit listed should be listed as 30-X and 40-X instead of 35-X and 45-X. While heights in the district are allowed to extend up to 35' & 45', this is only under the provision for taller ground floors (Sec. 263.20). The base heights should be 30' & 40' in the district.
50	Formula Retail	803.6	Ord. 140-11 amended this section without taking into account amendments previously made by Ord. 298-08. The proposal would add MUG and UMU districts to the list governed by Formula Retail for Article 8.
51	Missing Text for DTR Districts	825	The online Code is missing both subsections (c) and (d) for Sec 825. The proposal would add back the correct language from Ord. 298-08, File No. 081153, Approved 12/19/2008.

Item No.	Item title	Section(s) amended	Description
52	Trade Shop uses in Eastern Neighborhoods Districts	890.124	For context, contractors offices had historically been allowed in the old M zones under business service, Section 222, and in the SOMA mixed use districts as a trade shop as defined under 890.124(g). When the M districts were rezoned to UMU, this provision was eliminated because the trade shop definition does not reference EN districts, so contractors offices default to straight up office -- which is restricted in the UMU. However, the goal of UMU is to allow these sorts of "trade-shop" related contractors offices in the UMU. This proposal would change the trade shop 890.124(g) definition to include EN districts -- thereby allowing contractors offices in the UMU and other EN mixed use districts.
53	restaurant ordinance corrections	121.4, 725, 780.3, 781.1 790.55, 803.7, 812.45, 911.51-911.54, 916, many article 7 and 8 tables, Police code 21	The code contains many references to out-of-date restaurant classifications.
54	operating conditions for new restaurants	790.22, 790.90, 790.91	The recent restaurant ordinance created uniform operating conditions for eating & drinking uses. However, 703.5 doesn't appear to be referenced within the 3 new definitions. To increase clarity, the proposal would add a sentence to each definition stating that they need to comply with 703.
55	Added NCT for clarity and consistency	121.2, 134	Added not to distinguish between multiple names like upper market. Also added individual upper market nod where it previously only had upper market vaguery.
56	Pacific Avenue NCD - rear yard and open space	134(c) and 732.12	134c does not mention the Pacific Avenue NCD. But since the table is explicitly states that a 45% rear yard is required at the first story and above and all residential levels, the proposal would add Pacific to the list of districts that require rearyard at residential levels.
57	bird-safe glazing treatment	139(a)(b)(1)	There is an error in one word of the bird-safe treatment specifications. It contains the word "minimum" where it should say "maximum". The code should read: "(1) Bird-Safe Glazing Treatment. Bird-Safe Treatment may include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of glazing or UV patterns visible to birds. To qualify as Bird-Safe Glazing Treatment vertical elements of window patterns should be at least 1/4 inch wide at a maximum spacing of 4 inches or horizontal elements at least 1/8 inch wide at a maximum spacing of 2 inches."
58	typos	139(a),(b), 156, 207.6(c), 209.8, 212, 303(g), 303(i), 781.5 823, 1060.5.1	These are typos, improper references, and grammatical errors
59	consistency amongst 145 controls	145.4, many article 7 tables with the controls of XXX.13, 13a, 13b, 13c	145 requirements were inconsistently laid out in the various zoning control tables. This proposal would institute consistency throughout the tables.
60	Incorrect section references outside of article 7 tables, organizational changes	151.1, 201, 207.6, 212, 219, 231, 249.23, 249.52, 270, 307, 309, 309.2 419.1, 419.5, 423-5 429.3, 803.9, Police Code 1060.5.1	These errors reference sections that no longer exist or have moved. Many had already been corrected by codifier and left a footnote, so original language was put back in, officially deleted, and new language officially added.
61	178 (f) – ACTS OF GOD	178(f)	Nonconforming uses destroyed by an Act of God was amended to 18 months, but it appears that Section 178 CU was not amended in the same way. Section 178 (f) should have a parallel amendment.
62	Section 186; LCUs in RTO	186(a)(1)	Section 186 refers to LCUs in RH, RM, RED, and RTO. However, the rules for changes of use and exemption from termination in sub (a) only refer to RH, RM and RED. RTO LCUs should be subject to the same rules as RH/RM. RTO needs to be referenced in 186(a)(1).
63	lists of NC SUDs and RUDs	201, 235 702.1, 702.2, 702.3, 702.4, 802.2	These Sections have lists for Neighborhood Commercial Special Use Districts and Restricted Use Districts. Make sure always update these Sections with new districts.

Item No.	Item title	Section(s) amended	Description
64	section references in required DU Mix	207.6(b)(3)	This Section references BMR units per §326(h)(2)(B). This Section does not exist. This should reference 406(b)(1). Also, in this Section we correct a reference to student housing as defined in Section 315 to state 401. However, the pending Student Housing ordinance [BF 111374] currently waits for second read at the BOS. If this is adopted, a fix would still be needed to change the definition reference to 102.36.
65	eliminate Section 218(a), and references to it	218, 218.2, 249.65	This Section only applies to C-1 Districts-- there are no parcels with this zoning remaining.
66	Section 218.1--Massage Establishment	218.1, 303(o), and many article 7 and 8 tables, also definitions in 790.60 and 890.60	The table shows that new Massage uses are C / P, this is unclear. Proposal would clarify this section & 790.60 & 890.60 & all related zoning control tables. Remove the additional CU criteria from each of the 3 definitions of massage and instead reference the criteria already listed in 303(o).
67	expired tobacco paraphernalia controls	227, 786, etc.	Section 786 expired on 8/10/12. Therefore deleting all sections that were subject to the more restrictive definition of Tobacco Paraphernalia and reverting to the citywide definitions and controls.
68	Head Shop definition incorrectly references MCD definition	227, 790.123, 890.123	Section 790.123 regarding Tobacco Paraphernalia Establishments refers to MCD definitions incorrectly. The definition section is 3301 (f), not 3201 (f) of the Health Code.
69	moved Code sections are now improperly referenced	249.33(b)(6)(B)i	PC Sec. 249.33(b)(6)(B)i states "described below in subsection (b)(7)" which doesn't exist. 249.33(b)(6)(B)i should be amended such that "according to the procedures described below in subsection (b)(7)" is changed to "according to the procedures described below in Section 424"
70	North of Market SUD	249.5(c)(6), (10)	<p>In May 2011, the minimum off-street parking requirements for the NOMAR SUD were modified so that there's no longer a minimum off-street parking requirement or Conditional Use requirement for the modification of the off-street parking standard in the SUD as stated in Code Section 161(h). However, Code Section 249.5(c)(6) still references the old Code language in 161(h) that required the Planning Commission to approve Conditional Use for the parking modification. The Code language in 249.5(c)(6) needs to be changed so it reflects the new standards of Code Section 161(h).</p> <p>The Garment Shop Special Use District has been repealed via Ordinance 167-07. Previously there had been a special definition for garment shops that had less than 25 sewing machines. This change deletes the reference to Garment Shop and instead would rely on the recently updated definition of "trade shop" for such uses as defined in 175-12.</p> <p>The rear yard requirement in the NOMAR SUD (Section 249.5(c)(10) does not correctly cross-reference the rear yard requirement in Section 134 of the Code. In Section 249.5(c)(10), the Code should reference Section 134(g) instead of 134(f).</p>
71	Mission Alcoholic Beverage SUD	249.60(c)(1)	The reference in this SUD to Restaurant Use cites 790.69 (office) where it should cite in Section 790.91 (restaurant).
72	SEC. 303. CONDITIONAL USES-- regarding Formula Retail (and 703.3 sync)	303 703.3	This Section has been amended to be the main location for formula retail controls by BF 110482 Misc. Tech. Amend. However, newer amendments to the Formula Retail controls were not included in the list of the uses. Section 303 should be updated to reflect the following recent Ordinances: •CU now applies to all RC districts--not just RC-3 and RC-4 zoned parcels along Van Ness Avenue and to LCUs in RH, RM, RTO, and RED Districts. (change created by BF 101053 Consistent Street Frontages) •there are additional prohibitions on formula retail, including formula retail pet supply and formula retail eating & drinking establishments (BF 110592 Inner, Outer Clement and Geary NC Controls); and Upper Fillmore formula retail restaurants (BF 110070).
73	Updated references to San Francisco's General Plan	303(c), 309	The proposal changes references to "master plan" to "general plan" but does not make any changes to "institutional master plan".
74	Updating controls for Formula Retail with recent amendments	303(i)(4)	Insert LCU/NCU in RH, RM, RTO, and RED under conditional use authorization required.

Item No.	Item title	Section(s) amended	Description
75	Inadvertent deletion of appeal fee	352(a), admin code 31.22(1)	<p>On June 22, 2005, the Board passed updated fee legislation (ordinance 175-05). Language was included in this legislation that added a Board of Supervisor's surcharge to all Conditional Use and Environmental applications that would "compensate the City for the costs of appeals to the Board of Supervisors."</p> <p>In subsequent fee change legislation, this language was somehow removed from the code.</p> <p>This proposal would add to Planning Code Section 352(a), "A \$111 surcharge shall be added to the fees for a conditional use or planned unit development to compensate the City for the costs of appeals to the Board of Supervisors." immediately following the sentence. "The initial fee amount is not to exceed 50% of the construction cost."</p> <p>In the Administrative Code section 31.22(1), please add the language "A \$111 surcharge shall be added to the fees in Section 31.22(a) to compensate the City for the costs of appeals to the Board of Supervisors." immediately following the sentence "Where said total estimated construction cost is \$100,000,000 or more: \$272,962 PLUS 0.016% of the cost over \$100,000,000."</p>
76	Affordable housing fee application market and Octavia	352, 416.3	The fee doesn't apply to commercial use so there should be no credits. This text was added with EN Code Corrections to keep the table consistent in format with other fee changes, however it created confusion instead.
77	TIDF Fee Schedule for EN	423.3 Table 423.3A	The non-residential fees column in this table present the Net TIDF impact fees. The original impact fees approved by the Commission included an additional \$10 for each Tier. This distinction should be clarified in the table, by adding a column that shows the original impact fees and another one for Net TIDF.
78	improper reference within the EN Infrastructure Fee	423.3A	In the written Code, Table 423.3A references the Tier definition in Section 423.3(a). The proper reference should be 423.2(a). Table 423.3B references the Tier in Section 422.3(a) when it also should be 423.2(a).
79	organizational corrections	429.3, 429.5, 703.2, 803.2, 803.3	These changes are to make the code more consistent or clear (e.g. re-lettering, formatting).
80	sings in residential districts	606 (b)(2)(B)	Section 606 (b)(2)(B) addresses signs all "RM or RED Districts." The proposed change would apply this control to all RM districts not just RM-1 districts.
81	arcade uses	725.69 (b) also fixed in many of the other tables, starting at 719.69(b)	Section number reference should be 790.4 instead of 790.04
82	"Large fast food"	728.1, 729.1, 737.1, 738.43	Planning Code Section 737.1 on line (in the introductory paragraph) still refers to "large fast food." This definition no longer exists.
83	error from Ordinance 140-27	733a	733A.13a 277 A missing in 733A.13a corrected in on-line code
84	error from Ordinance 140-28	733a	733A.26 278 A missing in 733A.26 corrected in on-line code
85	specific provision without table entry	734.68, 735.68, 737.68	The proposal would remove fringe financial service provision when no table entry for it.
86	sections 733A.1, 734, 737	sections 733A.1, 734, 737	The subheadings under headings (commercial & institutional standard uses) states "non-retail sales & services".
87	old address	Temporary Land Use Controls conclusion	The Office of the Zoning Administrator is no longer located at 1660 Mission Street.
88	update references to Planning Commission and Department.	Various including: 249.5, 303, 309, Temporary Land Use Control Table and Police Code 1060.5.1	The proposal would change City Planning Commission to Planning Commission and City Planning Department to Planning Department.

Item No.	Item title	Section(s) amended	Description
89	incorrect numerical references in zoning control tables	Various Article 7	many Article 7 tables had incorrect numbers, either referenced, or just typos.
90	Incorrect and outdated lists.	Various including: Temporary Land Use Controls, etc.	Several places in the Code attempt to keep an ongoing catalog of similar controls. While this is good in theory, in practice the lists become lost and the controls are amended while the lists are not.



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 18750 Planning Code and Administrative Text Changes

HEARING DATE: NOVEMBER 29, 2012

*Project:* Planning Code Corrections  
*Case No.:* 2012.0543T  
*Initiated by:* Planning Commission  
*Prepared by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*With the assistance of:* Thayer Mullins, Legislative Intern

*Recommendation:* Recommend Approval with Modifications

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS AN ORDINANCE INITIATED BY THE PLANNING COMMISSION THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE AND ADMINISTRATIVE TO (1) CORRECT ERRORS, MAKE LANGUAGE REVISIONS AND UPDATES; (2) REVISE GRAPHICS TO BE CONSISTENT WITH TEXT; (3) AMEND FEES TO BE CHARGED FOR CERTAIN KINDS OF APPLICATIONS AND APPEALS; (4) CLARIFY THE MEANING OF CERTAIN PLANNING CODE SECTIONS; AND (5) ADOPT FINDINGS, INCLUDING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND PLANNING CODE SECTION 302, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

### PREAMBLE

Whereas, on October 18, 2012, the Planning Director requested that amendments be made to the Planning Code under Case Number 2012.0543T; and

Whereas, the proposed Planning Code text changes would amend several sections of the Code as outlined in Exhibit A and C; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the initiation of the proposed Ordinance on October 18, 2012; and

WHEREAS the Planning Commission adopted Resolution No. 18718 initiating amendments to the Planning Code on October 18, 2012; and



WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Planning Commission hereby recommends that the Board of Supervisors *approve with modifications* the proposed ordinance. Specifically, the proposed modifications are:

1. Changes to Sections 156 and 424.6.2: These two sections need to be amended in response to the recently adopted Transit Center District Plan [Board File No. 120665, Ordinance No. 182-12]. The only changes would be renumbering controls consistent with standard organization of the Planning Code.
2. Changes to Section 227: This section needs to be amended in response to the recently adopted Transit Center District Plan [Board File No. 120665, Ordinance No. 182-12]. The only change would be to insert the new district C-3-O (SD) and using the same use controls as those used by C-3-0. This change is consistent with the explanatory materials that was before the Commission, but did not make it into the proposed Ordinance.
3. Changes to Sections 702.3: Two changes are proposed to this Section. First, as initiated this Section would have inserted the words "Fast-Food" into the Taraval and Irving Street Restricted Use Subdistricts. The adoption of Ordinance Number 75-12 (Eating and Drinking Controls) struck these words properly and "Fast-Food" should not be inserted into the titles for the Taraval and Irving Street Restricted Use Subdistricts. Second, Ordinance Number 61-09 (Balboa Park Station Area Plan), struck Section the Ocean Avenue Fast Food Subdistrict and all references to this district, however, a subsequent ordinance inadvertently reinserted this obsolete district into the list in Section 702.3.
4. Changes to Sections 740 et. seq.: The Adopted Ordinance Number 175-12 created the Irving Street NCD (among other changes). This Ordinance established that formula retail Restaurants and Limited-Restaurants would be "not permitted" while other, non-formula retail Restaurants and Limited-Restaurants would be "permitted". These controls are intended to apply to the "Irving Street Restaurant Subdistrict" which is the same area as the Irving Street NC-2. Therefore, this control does not need to be listed twice.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Planning Code has been amended dozens of times over the past three years.

2. Many factors contribute to the errors that need fixing by this legislation. First, there is a delay between the effective date of a Ordinance and when the online Planning Code is updated to reflect the change.
3. In addition, amendments from the Planning Code are proposed by many sources including the Planning Department, the Board of Supervisors, the Mayor and private parties. Legislation does not march in an orderly manner through the approvals process. An Ordinance considered by the Planning Commission in the spring may sit at the Board for months before it is called to hearing before a Committee. In the meantime, other pieces of legislation may move ahead that were not considered in the original ordinance. The most recent Code changes not yet visible online may not be used as a basis for new Code amendments.
4. As a result, many code amendments were inadvertently removed and controls were amended or omitted. The majority of this legislation addresses these issues. (Attachment B, G, and H) details the Code sections that are being amended and the specific changes being made).
5. With regard to the remainder of the proposed changes to the Planning Code the proposed changes are minor in scope - typographical errors, updating and consolidating definitions, and correcting errors that were inadvertently made by subsequent code changes and/or by the publisher. This proposal contains non-substantive changes not changes in policy.
6. Therefore, the Commission recommends *approval with modifications of the proposed Ordinance*.
7. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

#### **I. COMMERCE & INDUSTRY ELEMENT**

THE COMMERCE & INDUSTRY ELEMENT SETS FORTH OBJECTIVES AND POLICES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE. THE PLAN SERVES AS A COMPREHENSIVE GUIDE FOR BOTH THE PUBLIC AND PRIVATE SECTORS WHEN MAKING DECISIONS RELATED TO ECONOMIC GROWTH AND CHANGE.

#### **GOALS**

*The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals: 1) Economic Vitality - the first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city; 2) Social Equity - the second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training; and 3) Environmental Quality - the third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable*

*place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.*

**OBJECTIVE 1**

**MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.**

**POLICY 1.3**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan

**OBJECTIVE 6**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

**POLICY 6.1**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

**POLICY 6.3**

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

**POLICY 6.8**

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

**II. URBAN DESIGN ELEMENT**

**THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.**

**GOALS**

*The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.*

**OBJECTIVE 1**

**EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.**

**POLICY 1.3**

Recognize that buildings, when seen together, produce a total effect that characterizes the city and

its districts.

**OBJECTIVE 2**

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

**POLICY 2.4**

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

**POLICY 2.5**

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

**POLICY 2.7**

Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

**III. DOWNTOWN ELEMENT**

THE DOWNTOWN PLAN GROWS OUT OF AN AWARENESS OF THE PUBLIC CONCERN IN RECENT YEARS OVER THE DEGREE OF CHANGE OCCURRING DOWNTOWN – AND OF THE OFTEN CONFLICTING CIVIC OBJECTIVES BETWEEN FOSTERING A VITAL ECONOMY AND RETAINING THE URBAN PATTERNS AND STRUCTURES WHICH COLLECTIVELY FOR THE PHYSICAL ESSENCE OF SAN FRANCISCO.

**OBJECTIVE 1**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

**OBJECTIVE 12**

CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

**Policy 12.1**

Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

*The goal of the proposed Ordinance is to make typographical and clerical errors to the Planning Code.*

8. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed Ordinance will not impact existing housing and neighborhood character.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance will not impact the supply of affordable housing.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.*

- G) That landmark and historic buildings will be preserved:

*The proposed Ordinance will update the Planning Code to reflect Charter Section 4.135 to incorporate the Historic Preservation Commission.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The proposed Ordinance will not impact the City's parks and open space.*

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on November 29, 2012.



Jonas P. Ionin  
Acting Commission Secretary

AYES: Fong, Wu, Antonini, Borden, Hillis, Moore, and Sugaya

NOES: --

ABSENT: --

ADOPTED: November 29, 2012

Exhibit A: Proposed changes to the Draft Ordinance\* since the Commission Initiation  
Exhibit C: Guide to the Draft Ordinance



**SAN FRANCISCO  
PLANNING DEPARTMENT**

BOS-11 File 121019

COB, epage

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December 3, 2012

Supervisor Wiener and  
Ms. Angela Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
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San Francisco, CA 94102

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Re: **Transmittal of Planning Case Number 2012.1329U**  
**BF No. 12-1019: California Environmental Quality Act Procedures**

Recommendation to Supervisor Wiener 1) engage the public; 2) consider this Commission's recommendations, including a) clarify what the first discretionary action, b) to consider extending appeal period, and c) to default to a longer appeal period for actions that are not noticed; and then 3) bring a revised version of the Ordinance which takes this input into account back to the Planning Commission for consideration.

Dear Supervisor Wiener and Ms. Calvillo,

On November 29, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-1019.

At the hearing, the Commission voted 6-0 to make advisory recommendations to Supervisor Wiener concerning the proposed Ordinance which would amend the Administrative Code. The Commission appreciates your consideration of this request.

Sincerely,

Digitally signed by anmarie  
rodgers  
DN: dc=org, dc=sfgov,  
dc=cityplanning,  
ou=CityPlanning, ou=Directors  
Office, cn=anmarie.rodgers,  
email=anmarie.rodgers@sfgov.  
org  
Date: 2012.11.30 18:19:24  
-0800'

AnMarie Rodgers  
Manager of Legislative Affairs

Cc:  
City Attorneys Jon Giver and Elaine Warren

Attachment (one copy of the following):  
Planning Commission Resolution No. 18754



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 18754 Administrative Code Text Change HEARING DATE: NOVEMBER 29, 2012

*Project Name:* California Environmental Quality Act Procedures  
*Case Number:* 2012.1329U [Board File No. 12-1019]  
*Initiated by:* Supervisor Wiener  
*Introduced:* October 16, 2012  
*Staff Contact:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Reviewed by:* Bill Wycko, Environmental Review Officer  
Bill.Wycko@sfgov.org, 415-575-9048

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RECOMMENDING THAT SUPERVISOR WIENER 1) ENGAGE THE PUBLIC; 2) CONSIDER THIS COMMISSION'S RECOMMENDATIONS, INCLUDING: (A) TO CLARIFY THE FIRST DISCRETIONARY ACTION, (B) TO CONSIDER EXTENDING APPEAL PERIOD, AND (C) TO DEFAULT TO A LONGER APPEAL PERIOD FOR ACTIONS THAT ARE NOT NOTICED; AND THEN 3) BRING A REVISED VERSION OF THE ORDINANCE WHICH TAKES THIS INPUT INTO ACCOUNT BACK TO THE PLANNING COMMISSION FOR CONSIDERATION.

### PREAMBLE

Whereas, on October 16, 2012, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-1019 which would to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

Whereas, on November 29, 2012, the Planning Commission (hereinafter "PC") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the PC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and



BOS-11 Rules  
Cpage clerk

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# Mayor's Disability Council

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**Edwin M. Lee**  
Mayor

**Carla Johnson, CBO, CASp**  
Interim Director

**Jul Lynn Parsons**  
**C. Wendy James**  
Co-Chairs

November 27, 2012

Attn: Mayor Edwin M. Lee  
San Francisco City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

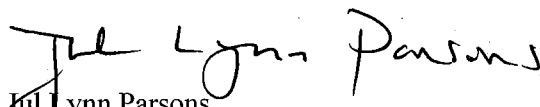
Dear Honorable Mayor Lee,

It is with great regret that I submit to you my resignation on the Mayor's Disability Council effective December 31, 2012. Having served with pleasure under three administrations, I can frankly say the experience has been one of the most rewarding of my civil service career.

Due to the leadership of administrations such as yours, expertise on staff with the Mayor's Office on Disability, and the committed dedication of colleagues on the council working proactively alongside community advocates and city agency leaders, San Francisco reigns as a model for the inclusion of persons with disabilities in a wide array of civic engagement.

Please consider appointing as my replacement a person knowledgeable with hearing loss issues, perhaps one of the many veterans returning home with such challenges. Again, thank you very much for this opportunity to serve our great city, and for your ongoing support in the promotion of human rights.

Respectfully yours,

  
Jul Lynn Parsons  
Co Chair Mayor's Disability Council

Cc: Clerk of the Board of Supervisors ✓  
Mayor's Disability Council  
Mayor's Office on Disability

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**From:** Chapin-Rienzo, Shanda on behalf of Reports, Controller  
**Sent:** Wednesday, December 05, 2012 1:42 PM  
**To:** Calvillo, Angela; Nevin, Peggy; BOS-Legislative Aides; BOS-Supervisors; Kawa, Steve; Howard, Kate; Falvey, Christine; Elliott, Jason; Campbell, Severin; Newman, Debra; sfdocs@sfpl.info; gmetcalf@spur.org; CON-Media Contact; ggiubbini@sftc.org; CON-EVERYONE; CON-CCSF Dept Heads; CON-Finance Officers; Kelly, Jr, Harlan; Hood, Donna; Hom, Nancy; Mansour, Emad; Bridge, Richard; Rydstrom, Todd; jjwong@sfgwater.org; Johanson, Alan  
**Subject:** Issued: The SFPUC Implemented Both of the Recommendations From a 2011 Audit of the Tesla Water Treatment Facility and the East/West Transmission Main

The Office of the Controller's City Services Auditor Division (CSA) today issued a follow-up memorandum concerning a 2011 audit of the San Francisco Public Utilities Commission's Tesla Water Treatment Facility and East/West Transmission Main. The follow-up found that both of the recommendations were fully implemented.

To view the full memorandum, please visit our website at: <http://co.sfgov.org/webreports/details.aspx?id=1505>

This is a send-only email address.

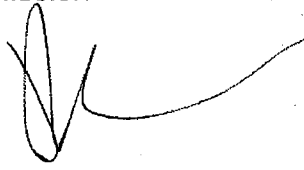
For questions about the memorandum, please contact Director of City Audits Tonia Lediju at [Tonia.Lediju@sfgov.org](mailto:Tonia.Lediju@sfgov.org) or 415-554-5393, or the CSA Audits Unit at 415-554-7469.



## AUDIT FOLLOW-UP MEMORANDUM

TO: Commission President and Members  
San Francisco Public Utilities Commission

Harlan L. Kelly, Jr., General Manager  
San Francisco Public Utilities Commission

FROM: Tonia Lediju, Director of City Audits  
City Services Auditor Division 

DATE: December 5, 2012

SUBJECT: **The SFPUC Implemented Both of the Recommendations From a 2011 Audit of the Tesla Water Treatment Facility and the East/West Transmission Main**

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### EXECUTIVE SUMMARY

In September 2011 the San Francisco Public Utilities Commission (SFPUC) reported progress indicating that it had fully implemented the two recommendations in a January 2011 audit report on the Water System Improvement Program (WSIP) construction contracts. This follow-up confirmed that both of the recommendations were fully implemented.

### BACKGROUND, OBJECTIVE & METHODOLOGY

#### Background

The Office of the Controller's City Services Auditor Division (CSA) followed up on the two recommendations in its January 2011 audit report, *San Francisco Public Utilities Commission: The PUC Followed Best Practices in Managing Its Water System Improvement Program Construction Contracts for the Tesla Water Treatment Facility and the East/West Transmission Main and the Contractors Complied With Contract Terms*. SFPUC manages a complex water supply system that includes reservoirs, pipelines, tunnels, and treatment systems stretching from the Sierra Nevada Mountains to the City and County of San Francisco (City). In November 2002 San Francisco voters approved a comprehensive plan for updating the system and authorized the \$4.6 billion WSIP to repair, replace, and seismically upgrade components of the system.

PCL Civil Constructors, Inc., was awarded the construction design/build contract to build the Tesla Water Treatment Facility (Tesla), and Ranger Pipelines, Inc., was awarded the construction contract to build the East/West Transmission Main (East/West). The audit evaluated whether SFPUC followed best practices in project and construction management and contract administration, and assessed the functionality of SFPUC's new Construction Management Information System (CMIS) and its impact on the management of Tesla.

### **Objective**

The objective of this follow-up is to verify whether SFPUC sufficiently implemented the recommendations in the January 2011 audit report. Consistent with Government Auditing Standards, Section 7.05, promulgated by the United States Government Accountability Office, the purposes of audit reports include facilitating follow-up to determine whether appropriate corrective actions have been taken. CSA follows up on its audits because their greatest benefit is not in the findings reported or the recommendations made, but in the implementation of actions to resolve audit findings.

### **Methodology**

CSA discussed with key SFPUC personnel the status of the corrective actions to date, obtained documentary evidence to support the implementation status, and verified the existence of procedures SFPUC established to implement CSA's recommendations.

## **RESULTS**

The two recommendations in the audit report were fully implemented, as described below.

### **Recommendation 1:**

**In general, SFPUC should not use change orders in lieu of issuing formal Requests for Bids (RFBs). Although the East/West Phase II change order decision was openly conveyed and appropriately approved, in other instances SFPUC may achieve greater benefits through a competitive procurement.**

CSA confirmed that SFPUC has developed and implemented detailed procedures for determining the appropriate use of change orders. SFPUC has implemented the following procedures in response to the recommendation not to use change orders in lieu of issuing formal RFBs:

- Developed a Construction Project Change Order Authority Matrix that defines the approvals required for various types and levels of change orders. The levels of approval, from regional project manager to SFPUC Commission, have a maximum authority limit for changes to project construction costs.

- Implemented quarterly procedural audits of all projects conducted by the Program Construction Management Team, with results reported to the program's senior management.
- Established a Change Control Board composed of seven members, four voting and three non-voting, to review proposed preconstruction and construction project changes that exceed threshold limits. Changes of \$50,000 or greater are considered major changes requiring review. The board recommends to the WSIP director for final approval or rejection of the change order.

**Conclusion:** Recommendation 1 was implemented.

**Recommendation 2:**

**SFPUC should determine whether the CMIS operational concerns expressed by some SFPUC and contractor staff are applicable to the other 20 WSIP projects underway. If similar issues are identified, SFPUC should undertake the needed steps to remediate or otherwise correct the system deficiencies, or increase training if the problems are user-related.**

CSA confirmed that SFPUC took the following steps to assess the CMIS operational concerns, correct system deficiencies, and increase training:

- Conducted four workshops for CMIS users to determine operational concerns and issues of use. Revisions to the system were implemented internally and through communication with system designers.
- Provided training and demonstration to CMIS users as needed, via desk-side help, in-person conference, or webinar.
- Broadcast CMIS "Tips" and "Directives" to provide users with information and instructions on CMIS procedures.

**Conclusion:** Recommendation 2 was implemented.

CSA extends its appreciation to you and your staff who assisted with this follow-up. If you have any questions or concerns, please call me at (415) 554-5393 or email me at [tonia.lediju@sfgov.org](mailto:tonia.lediju@sfgov.org).

cc: SFPUC  
Jackson Wong  
Alan Johanson

December 5, 2012

Nancy Hom  
Matthew Lum

Controller  
Ben Rosenfield  
Mark de la Rosa  
Donna Crume

December 5, 2012

## ATTACHMENT: DEPARTMENT RESPONSE

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San Francisco  
**Water Power Sewer**  
Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor  
San Francisco, CA 94102  
T 415.554.3155  
F 415.554.3161  
TTY 415.554.3488

November 15, 2012

Tonia Lediju, Audit Director  
Office of the Controller, City Services Auditor Division  
City Hall, Room 476  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

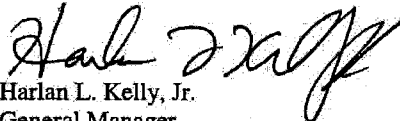
Subject: Follow-up of 2011 Audit of Tesla Water Treatment Facility and the East/West Transmission Main.

Dear Ms. Lediju,

Thank you for providing us the opportunity to review the results of the Follow-up of 2011 Audit of Tesla Water Treatment Facility and the East/West Transmission Main report, prepared by the Controller's Office, City Services Auditor.

If you have any questions or need additional information, please do not hesitate to contact me at (415) 554-1600.

Sincerely,

  
Harlan L. Kelly, Jr.  
General Manager

cc: Michael Carlin, Deputy General Manager  
Todd L. Rydstrom, AGM Business Services & Chief Financial Officer  
Jackson Wong, Acting AGM, Infrastructure  
Nancy L. Hom, Director, Assurance & Internal Controls

Edwin M. Lee  
Mayor

Art Torres  
President

Vince Courtney  
Vice President

Ann Moller Caen  
Commissioner

Francesca Vietor  
Commissioner

Anson Moran  
Commissioner

Harlan L. Kelly, Jr.  
General Manager



## RECOMMENDATIONS AND RESPONSES

Recommendation	Department's Response to Original Report	Reported Status as of This Follow-up	Auditor's Follow-up Work	Results
<p>1. In general, do not use change orders in lieu of issuing formal Request for Bids (RFBs). Although the East/West Phase II change order decision was openly conveyed and appropriately approved, in other instances, SFPUC may achieve greater benefits through a competitive procurement.</p>	<p>In general, we are in agreement with the audit recommendation regarding the use of RFBs in lieu of change orders.</p> <p>The SFPUC believes that the issuance of the change order for the tunneling portion of this project was the most efficient and cost-effective way to complete all of the related pipeline work. Although the audit report does mention several justifications and factors, we would like to elaborate more on the specific circumstances and reasons that triggered using the change process to complete the pipeline.</p> <p>1. <b>Interdependent schedule.</b> The East-West pipeline is connected to a new Alemany Pump Station, which was concurrently under construction. Completion of the pipeline was needed before the summer of 2009 so the new Alemany Pump Station could be functionally tested and the station completed. Several Peninsula projects also depended on the system's ability to pump water from the East side of the city to</p>	<p>Change orders are issued when a change to the original contract is needed to achieve the intent of the project</p> <p>Steps taken to insure proper use of change orders:</p> <ul style="list-style-type: none"> <li>• Enforcing contract specification Section 00.700 and WSIP CM Procedure P016.</li> <li>• Audits are conducted by the Program Construction Management Team on every project and reporting back to the program's senior management.</li> </ul> <p>A WSIP Change Control Board (CCB) has been implemented under Procedure PM 5.02 to review and approve all Owner-requested changes over \$50,000.</p>	<p>CSA's review of documents related to contract specification Section 00.700 and Procedure PM 5.02 confirmed that SFPUC expanded its procedures to include a board to review proposed preconstruction and construction project changes that exceed threshold limits. Changes greater than or equal to \$50,000 due to work not in a construction contract's original scope and required by the owner/client representative are considered major changes requiring review by the board. The board is required to review major scope changes during construction and provide recommendations to the WSIP director for final approval/rejection. SFPUC also has developed an authorization matrix that guides managers in change order authorization limits.</p>	Implemented



Recommendation	Department's Response to Original Report	Reported Status as of This Follow-up	Auditor's Follow-up Work	Results
	<p>the West. Without timely completing the 300 feet of pipeline through tunneling under BART and I-280, SFPUC could not put Alemany Pump Station on line and subsequently other Peninsula projects could have been delayed.</p> <p>2. <b><u>BART permit.</u></b> The original project plan was to have the 4.5 miles of the East West Main under one contract. The project needed two permits from BART (only 70 feet of pipeline is under BART) and Caltrans for the 300-foot pipe to pass under both rights-of-way. The team successfully obtained the permit from Caltrans during the design phase. After two years of design review, BART engineering and real estate required deeper depth for the tunnel and construction during non-operation time (1 a.m. to 4:30 a.m.). BART also asked for execution of a memorandum of understanding that includes all the right-of-way and construction perimeters as a condition of permit. At that point, it was clear we could not include the tunneling portion of the work as a part of the first contract.</p>			

Recommendation	Department's Response to Original Report	Reported Status as of This Follow-up	Auditor's Follow-up Work	Results
	<p>3. <b>Change Order.</b> BART's requirement for a short duration of tunneling delayed the design work for Phase II of the project since it required additional geotechnical work in order to devise the tunneling depth and method. The BART permit was obtained in summer of 2008 after extensive geotechnical investigation that resulted in an accepted trenchless method that met the construction window that BART required. Considering the facts that advertising and awarding a new contract would have taken at least eight months and the pipeline could not be in service in the summer of 2009, Ranger Pipeline completed Phase I work ahead of time, less than 1 percent of the contingencies were expended for Phase I, and a mobilized contractor at the site would have less impact on the neighborhood; SFPUC decided to pursue the change order process in lieu of advertising for public bids. As a result, both phases of the project were completed by the end of May 2009 and the pipeline was in service in time.</p>			

Recommendation	Department's Response to Original Report	Reported Status as of This Follow-up	Auditor's Follow-up Work	Results
<p>2. Determine whether the CMIS operational concerns expressed by some SFPUC and contractor staff are applicable to the other 20 WSIP projects underway. If similar issues are identified, SFPUC should undertake the needed steps to remediate or otherwise correct the system deficiencies, or increase training if the problems are user-related.</p>	<p>In general, we are in agreement that we should determine whether the concerns that were expressed by some of the project and contractor staff are reflected by other projects' staff.</p> <p>The Users Group meeting, scheduled for February 14, 2011, will provide users the opportunity to express concerns. If similar issues are identified, SFPUC will correct the system to the extent that is practicable and will increase training for user-related problems.</p>	<p>Steps taken to assess level of concerns and correct system deficiencies:</p> <ul style="list-style-type: none"> <li>• Four workshops for all CMIS users were conducted to determine operational concerns and issues of use. Revisions to the system were implemented internally and through communication with Primavera.</li> <li>• On-site refresher training is provided on an as-needed basis; training is provided in desk-side, in-person conference and webinar settings. Training has been conducted for new and current program, bureau, City, contractors and project CM personnel, including inspectors, document control personnel and field contracts personnel.</li> <li>• Training and demonstration is performed on an as-needed basis in webinar format when users request direct assistance or instruction – on an almost daily basis.</li> </ul>	<p>CSA reviewed documentary evidence of workshop training provided to system users and revisions made to the system. CSA reviewed:</p> <ul style="list-style-type: none"> <li>• Schedule of workshop trainings, training agenda, and sign-in sheets.</li> <li>• Schedule of on-site refresher training and notification of training to participants.</li> <li>• User forum e-mail notification, presentation materials, and system questions and answers from forum.</li> <li>• CMIS guidance, "Tips" and "Directives."</li> </ul>	<p>Implemented</p>

Recommendation	Department's Response to Original Report	Reported Status as of This Follow-up	Auditor's Follow-up Work	Results
		<ul style="list-style-type: none"> <li>CMIS "Tips" are broadcasted whenever a resource, technique, or process is developed that facilitates users' use of CMIS. CMIS "Directives" are broadcast to instruct users if there is any modification to any procedure.</li> </ul>		

**Revised letter on TIDF**

Sue Vaughan [susan.e.vaughan@sonic.net]

**Sent:** Tuesday, December 04, 2012 12:53 PM**To:** Mar, Eric (BOS); Farrell, Mark; Chiu, David; Chu, Carmen; Olague, Christina; Kim, Jane; Elsbernd, Sean; Wiener, Scott; Campos, David; Cohen, Malia; Avalos, John; Board of Supervisors**Cc:** Pagoulatos, Nickolas; Hsieh, Frances; Power, Andres; Chung Hagen, Sheila; Angulo, Sunny; Durazo, Chris

Please see the additional paragraph in bold below.

Sue Vaughan

(415) 668-3119

2120 Clement Street, Apartment 10

San Francisco, California 94121

(415) 668-3119

[susan.e.vaughan@sonic.net](mailto:susan.e.vaughan@sonic.net)

December 4, 2012

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place

San Francisco, California 94102

Dear Supervisors:

Transportation Impact Development fees (TIDF) are good in concept, but the legislation before you today leaves much to be desired. All projects have an impact on the operation of the buses, light rail, and other vehicles that make up the San Francisco Municipal Transportation Agency (Muni), and thus I question a) exemptions added into the existing legislation and b) exemptions in the current legislation that have not been eliminated.

In particular, I object to the new exemptions, added to the existing ordinance, for post-Redevelopment projects in cases where project sponsors apply for categorical exemptions before December 31, 2012. Included in these projects are those for the former Bayview Hunters Point project, the Hunters Point Shipyard project, and the all Mission Bay projects. These projects are massive and will undoubtedly create a huge impact on the operation of Muni and the expenses of the SFMTA – either through added vehicles on the streets contributing to congestion and/or through added passengers – when they are complete.

**The legislation also provides policy credits to small businesses that are fewer than 5,000 gross square feet and that are not formula retail, and to projects that provide fewer than the maximum number of parking spaces permitted. In some cases, the credits are 'zero' – though even a project with no parking at all has an impact on Muni in terms of increases riders. I support credits – but not credits of zero. Even small businesses can be assessed small fees to counter balance their impact on the SFMTA, and any project that provides any parking at all should be assessed fees, though ones that provide less parking could be assessed less.**

I am also concerned that exemptions in the existing ordinance have not been eliminated. All projects in the categories below could generate significant vehicle traffic and/or increase the number of Muni passengers. include exemptions for:

- State and federal government projects that are solely for government purposes;
- Vehicle storage areas, which, according to Planning Code Sec. 209.7, can include “Community garage[s] confined to the storage of private passenger automobiles of residents of the immediate vicinity,” “Sh community garage[s], confined to the storage of private passenger automobiles of residents of the immediate vicinity,” and off-street parking facilities, including those for car-share;
- “Other uses” which, according to Planning Code Sec. 227 c-l, n-o, and q-r, include: mortuaries and rela businesses; utility installation and public service facilities that we believe are not sufficiently defined

public transportation facilities that include those related to air transport and ferries; enterprises in C, M, PDR districts; waterborne businesses and waterborne recreational activities; and Internet services exchanges; and,

- Automotive services enterprises, and wholesale materials and equipment storage enterprises, which : for categorical exemptions before Dec. 31, 2013;

To deliberately write exemptions into the new legislation for some very large projects, and to allow long-standing exemptions to remain, is contrary to the purpose of the TIDF, contrary to the long-standing transit-first policy of San Francisco, and contrary to the purpose of the Transportation Sustainability Project now undergoing environmental review. I urge members of the Board of Supervisors to send this legislation back to committee for additional revisions.

Sincerely,  
Sue Vaughan

Sue Vaughan  
(415) 668-3119

BOS-11  
cpage  
Electronically  
(M. Lane)

December 3, 2012

Honorable Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlet Place  
San Francisco, CA 94102

Honorable Edwin M. Lee, Mayor  
City and County of San Francisco  
City Hall, Room 200  
1 Dr. Carlton B. Goodlet Place  
San Francisco, CA 94102

Dear Mayor Lee and Members of the Board of Supervisors:

On behalf of my fellow members, I am pleased to present you with the 2011 Annual Report of the Citizen's General Obligation Bond Oversight Committee (CGOBOC).

CGOBOC was established in 2002 with Proposition F, passed by the voters of San Francisco to review and oversee the delivery of general obligation bond programs. A year later, Proposition C authorized and required CGOBOC to also review and provide input on the work of the City Services Auditor Division of the Office of the Controller, including the Whistleblower Program.

There have been many positive changes that occurred in 2011 to improve the effectiveness of CGOBOC's work; assist bond programs to ensure that projects stay on time, on scope and on budget; and provide better oversight for both the City Services Auditor and the Whistleblower Program.

The Committee requests an opportunity to present a summary of this 2011 Annual Report to the Government Audit and Oversight Committee of the Board of Supervisors. We look forward to a discussion regarding improvements to CGOBOC's operations and key updates on bond projects.

Best regards,



Thea Selby  
Chair, Citizen's General Obligation Bond Oversight Committee

Cc: Angela Calvillo, Clerk of the Board  
Ben Rosenfield, Controller  
Nadia Sesay, Director, Office of Public Finance  
Civil Grand Jury

Citizen's General Obligation Bond Oversight Committee  
2011 Annual Report

This report covers two main areas: (1) improvements to CGOBOC's operations and (2) key updates on bond programs.

**AREA 1: Improvements to CGOBOC's Operations**

There have been four substantial changes involving the Committee functions and operations. Effective January 2012, CGOBOC:

1. Increased the frequency of general meetings from four times a year to six times a year.
2. Assigned liaisons to each program overseen by the Committee to gain a more in-depth understanding of the bond programs, City Services Auditor, and Whistleblower Program.
3. Began developing a process and plans for using the statutory set-side of 0.1% of bond revenue that is allocated to CGOBOC to conduct oversight activities in order to guide City departments in staying on time, on scope and on budget.
4. Responded to the Civil Grand Jury's Report on the Whistleblower Program, as well as to prior Civil Grand Jury reports with unresolved recommendations.

**1. Increased Frequency of CGOBOC Meetings for Better Oversight**

CGOBOC did not feel quarterly meetings were sufficient to provide effective oversight given the increased level of bond authorizations and pace of activity across bond programs, the City Services Auditor, and the Whistleblower Program. Agendas were too big, and at times both the public and Committee members felt that there wasn't enough time to sufficiently get to the level of detail necessary to make effective decisions. Positively, the previous issue of not reaching quorums for CGOBOC meetings ceased to be a problem. Committee members, therefore, agreed to increase their time commitment to attend bi-monthly meetings, as they felt the increased frequency would be beneficial in moving more agenda items forward.

**2. Assigned Program Liaisons to Gain In-Depth Understanding of Programs**

Concurrent with increasing meeting frequency, CGOBOC members have also been assigned to serve as liaisons to the programs overseen by the committee (i.e., bond programs, City Services Auditor, and Whistleblower Program). Liaisons meet regularly with program managers and City staff to gain a more in-depth understanding of the reach, challenges and progress for each program. This has had the following positive effects:

- Each program is getting consistent and timely attention from the liaisons, which means that changes and challenges are acknowledged more rapidly than before.
- Liaisons report back to CGOBOC and summarize what they understand to be the issues at the end of the project manager's report. Construction management, whistleblower and audit programs are complex. Liaisons can spend the time to understand the nuances and details, and effectively summarize the salient points to the full Committee. This enables the effective



use of the limited time during Committee hearings and deeper oversight of program operations.

- Liaisons develop expertise as they get to know their programs, allowing CGOBOC members to better identify project risks involving being on time, on scope and on budget.

The table below shows the CGOBOC liaisons assigned to the programs overseen by the Committee.

<b>PROGRAM AREAS</b>	<b>CGOBOC LIAISONS</b>
<i>San Francisco General Hospital Rebuild Program</i>	Thea Selby
	Sanford Garfinkel
<i>Road Repaving and Street Safety Bond</i>	Terrance Flanagan
	Thea Selby
<i>Earthquake Safety and Emergency Response Bond Program (ESER)</i>	Robert Muscat
	Jonathan Alloy
<i>2000 Parks Bond and 2008 Clean &amp; Safe Neighborhood Parks Bond</i>	Corey Marshall
<i>Whistleblower Program</i>	John Madden
	Regina Callan
<i>City Services Auditor</i>	Rebecca Rhine
	Terrance Flanagan
<i>Branch Library Improvement Project</i>	Corey Marshall

### 3. Developed a Process for Using Oversight Funds

When CGOBOC was established, it was granted a set-aside funding of 1/10<sup>th</sup> of 1% of each bond's value for oversight of that bond program. These oversight funds, which currently total \$1,080,865, have not yet been used. If these funds are not used by the end of the bond, they go back to the bond. These set-aside funds were not established when the Laguna Honda Hospital (the reason for CGOBOC being established) or the Branch Library Improvement bond measures were passed. These funds, however, are available for the bond programs that were more recently approved, including the General Hospital, Clean & Safe Neighborhood Parks, Earthquake Safety and Emergency Response, and the Road Repaving and Street Safety bond programs.

As of September 2011, bond issuance and CGOBOC funds available totaled as follows:

**General Obligation Bonds Issued Since 2008**

**Actual**

Description of Issue (Date of Authorization)	Authorized	Issued	CGOBOC	CSA	Total
Clean and Safe N.Parks (2/5/2008)	\$185,000,000	\$102,950,000	\$102,950	\$205,900	\$308,850
San Francisco General Hospital (11/4/08)	\$887,400,000	\$426,345,000	\$426,345	\$852,690	\$1,279,035
Earthquake Safety & Emergency Response (6/8/10)	\$412,300,000	\$79,520,000	\$79,520	\$159,040	\$238,560
	\$1,484,700,000	\$608,815,000	\$608,815	\$1,217,630	\$1,826,445

**Projected in FY 2011-12 (Estimates)**

Description of Issue (Date of Authorization)	Authorized	Issued	CGOBOC (1/10 of 1%)	Audit (2/10 of 1%)	Total
Clean and Safe N.Parks (2/5/2008)	\$185,000,000	\$82,050,000	\$82,050	\$164,100	\$246,150
San Francisco General Hospital (11/4/08)	\$887,400,000	\$250,000,000	\$250,000	\$500,000	\$750,000
Earthquake Safety & Emergency Response (6/8/10)	\$412,300,000	\$140,000,000	\$140,000	\$280,000	\$420,000
	\$1,484,700,000	\$472,050,000	\$472,050	\$944,100	\$1,416,150

Cognizant that these funds support CGOBOC's mission to ensure that bond programs are on time, on budget and on scope, we set out to establish a system for determining (1) what the funds should be spent on and (2) how to appropriately use the funds. For example, CGOBOC has identified a potential project for each bond. In addition, the Controller's Office has provided assistance in developing the scope of work for two projects and putting these projects out to bid to consultants, including a community engagement benchmarking study to be implemented in the next few months.

Other projects identified by CGOBOC are not bond-specific, but are general to all bond programs. The Controller's Office may take on these projects using funds that they are allocated per the Administrative Code of 2/10 of 1% of the bond issuance. We are excited about the possibilities for these consulting projects to find best practices and to identify ways we can make the bond-funded improvements to the City and County of San Francisco the best they can be. These projects may include:

- Reviewing project management systems used across bonds to determine whether there is room for standardization.
- Providing an annual third-party review of bonds to be used by CGOBOC as an independent assessment of bond.
- Providing flow charts on how a bond flows through the various city departments to gain a better understanding of the interdependence and the maximized order of permits and approvals.

**4. Responded to Civil Grand Jury Reports**

CGOBOC submitted our response to the Civil Grand Jury and updated the status in April 2011. CGOBOC largely agreed with the Civil Grand Jury recommendations regarding improvements to the Whistleblower Program.

We implemented or are implementing the following changes to improve transparency and case tracking, while maintaining and prioritizing the confidentiality of individual complainants:

- The Whistleblower Program's website has been revamped in the Controller's website for easier access.
- The Controller's Office has increased publicly available information regarding complaints filed with the program.
- Whistleblower liaisons report back to CGOBOC quarterly regarding additional program detail and metrics.
- CGOBOC has worked with the Controller's Office on establishing best practices from other cities to most equitably and effectively handle whistleblower cases.
- CGOBOC continues to monitor the progress of the Whistleblower Program.

## **AREA 2. Key Updates on Bond Programs**

Below are key updates on the bond programs currently ongoing and overseen by CGOBOC.

### **SF General Hospital Improvement Bond Program**

*Liaisons: Thea Selby and Sanford Garfinkel*

San Francisco voters approved a General Hospital Improvement bond measure in 2008 for \$887M. As of 8/31/12, \$677M have been issued, with \$273M unencumbered. The website for this bond program is as follows: <http://sfdpw.org/index.aspx?page=126>.

This project is on time, on budget and on scope, with the experience from the Laguna Honda bond program having helped this project by allowing SF General to have money to more effectively develop project costs prior to placing the bond measure on the ballot and using a 3rd party estimator to provide a "reality check" review of bids by contractors in order to minimize change orders. A better economic climate has also helped the SF General Hospital project overall. Finally, the project manager benefits from having done similar projects before, and appears to adapt to challenges fast enough to keep the project on track.

Some of the difficulties have arisen regarding the Office of Statewide Health Planning and Development (OSHPD) approvals. When necessary, project manager Ron Alameida has spent significant time in Sacramento helping push through the project. Nonetheless, much of the risk comes from owner requested changes and from the difficulty in getting OSHPD approvals.

#### **Recommendations**

1. Continue to follow up on OSHPD approvals (one more major one to go) to ensure they do not slow down the bond.
2. Keep regular meetings between liaisons and bond project manager to ensure changes are being monitored.
3. Keep a close eye on the finishings as they take the longest and are most likely to get off schedule.

### **Laguna Honda Hospital Bond Program**

*Liaisons: Thea Selby and Sanford Garfinkel*

In 1999, San Francisco voters approved a bond to update Laguna Honda Hospital. This was prior to the existence of CGOBOC, but the bonds were not issued until 2005. This project is vastly underscope, overbudget, and overtime, and prompted the creation of CGOBOC. Originally to cost \$401M, it is now estimated to cost \$581M (of which \$299M are bond monies). Originally to provide 1,200 beds, it now provides 780 beds. Originally to be completed almost a decade ago, it is now projected to be completed by late fall 2014, 15 years after the start date, and 10 years after issuance of the first tranche of the bond.

Some of the **lessons** learned from this hospital project have been incorporated into the SF General Hospital Improvement Project, which include the following:

1. Perform pre-build work. Voters should know that what they are voting on has been carefully vetted in advance. Projects since Laguna Honda have included a “pre-build” component in which a careful and more accurate budget development is completed prior to placing the bond on the ballot.
2. Bring on general contractor at the design phase to reduce disconnect between the designers and the contractor.
3. Bring on key subcontractors at the design phase as well.
4. Have a 3<sup>rd</sup> party estimator vetting bids to minimize change orders. A low bid isn’t low if the bidder then submits a slew of change orders. When you have a change order, you are not competing against other bidders, so there is less incentive to keep the bid low, which encourages cost overruns.

Laguna Honda is 97% complete, according to project manager John Thomas.

<p><b>Earthquake Safety and Emergency Response Bond Program (ESER)</b></p>
----------------------------------------------------------------------------

<p><i>Liaisons: Jonathan Alloy and Bob Muscat</i></p>
-------------------------------------------------------

The City’s Earthquake Safety and Emergency Response Program will seismically repair our aging infrastructure and enhance emergency response for the safety of our community. The first phase of the program, a \$412 million San Francisco Earthquake Safety and Emergency Response Bond (ESER Bond), was approved by 79% of voters on the June 8, 2010 ballot. The website for this bond program is as follows: <http://sfearthquakesafety.org/>.

During FY2012, the Committee held public oversight hearings on the ESER Bond on November 17, 2011 and May 24, 2012. The Committee liaisons held several project reviews with City staff at DPW headquarters, and conducted site tours of fire stations and the emergency water supply system; they completed a site tour of the public safety building in FY2013.

The ESER Bond has three primary components, described below with status on scope, schedule and budget for each.

- **Neighborhood Fire Stations** The San Francisco Fire Department finalized and approved scope for all 21 stations to be addressed in this bond in February 2012. Focused Scope improvements will proceed at 16 stations; Comprehensive Renovation will proceed at 1 station; and Seismic renovations will proceed at 4 stations, 3 of which involve construction of new buildings.  
The original budget of \$65.1 million has been supplemented with \$8 million of previous Fire facility bond funds. The Committee reviewed this budget change in its May 24, 2012 hearing. Overall, Neighborhood Fire Station project portfolio is trending towards the project budget of \$73.1 million, as tracked by Focused Scope bids and Comprehensive and Seismic cost estimates received to date.
- **Public Safety Building.** The San Francisco Department of Public Works has 90% construction documentation completed for the Public Safety Building and Fire Station 30. This will be followed by cost validation and QA/QC measures, including peer reviews, constructability reviews, and interdisciplinary coordination reviews. Construction

started in December 2011. Initial activities include mobilization and temporary utilities set-up; construction of soil-mix shoring wall around perimeter, including tie-back installation and commencement of pile-driving at basement level.

The project schedule aligns with the commitment to voters, with a target move-in date in October 2014. The substantial completion is on track to be in May 2014.

The project is trending towards the project budget of \$239 million, as evidenced by the accumulative bid prices to date on trade packages that have been bid. A remainder of approximately thirty out of a total of fifty trade packages will be bid and awarded by the end of CY2012.

- **Emergency Water Supply System.** The approved scope includes improvements to two pump stations, two storage tanks, the primary reservoir, as well as associated cisterns, and a portion of the pipe network and tunnels. Expenditures towards the elements of this project total \$3.89 million through June 30, 2012, out of the approved budget of \$101.08 million. The forecast cost is on target with no variance.

#### **Recommendations**

1. Improve evaluations of current conditions before scoping new work, to understand dependencies and underlying required costs that affect the ability to execute planned tasks.
2. Maintain a significant goal for local hire and MBE participation in contracts and look for ways to prepare packages that enable smaller and local firms to bid competitively.
3. Continue to phase work to expedite process and permit approvals to meet or beat schedule and budget targets.
4. Continue to engage affected communities on project plans (such as fire stations) and cooperate with public agencies on task coordination across programs (such as street repair).

#### **2011 Roadway Repaving and Street Safety Bond**

*Liaisons: Terrance Flanagan and Thea Selby*

Repaving work funded by the \$248 million Roadway Repaving and Street Safety Bond began in the spring of this year. After reviewing the draft project plan dated March 2012, CGOBOC liaison held an initial meeting with the Department of Public Works (DPW) staff responsible for managing the Roadway Repaving and Street Safety project. The website for this bond program is as follows: <http://sfdpw.org/index.aspx?page=1580>

To date, the City has issued bonds amounting to \$76.5 million to cover the first phase of the project. Proceeds from this sale will be allocated in the following manner.

- \$45 million will go to street resurfacing
- \$14.7 million for two years of curb ramp improvements

- \$5 million for sidewalk improvements
- \$5.2 million for street structures improvements
- \$5.6 million for planning and implementation of Streetscape improvements

Some street repaving has already begun. Other segments of the project are still in either the design and bid phase.

### **Recommendations**

At our initial meeting, CGOBOC liaison made several recommendations regarding the DPW's project plan, as follows:

1. Enter into MOU. In order to ensure effective coordination between DPW and the San Francisco Public Utilities Commission (SFPUC), the DPW should enter into MOUs with each of these two organizations. An MOU is now in place with the SFPUC that does, in considerable detail, assign payment responsibilities to the respective parties as well as SFMTA. However, CGOBOC liaison feels there should also be some reference in the MOU specifying who is responsible for ensuring effective coordination between DPW and the SFPUC in the area of street repair to ensure street construction is done in tandem, thereby avoiding the need for re-excavations and repaving which are both costly and highly inconvenient to the public.
2. Consult very early on in the Streetscape project with neighborhood groups to help avoid costly delays in later phases of the project.
3. Provide an explanation on how unit costs for each of the five project segments were calculated and how they compare with similar work performed in other jurisdictions. The current report simply lists the project's deliverables but provides no explanation on the process followed in arriving at those deliverables. (While at the moment the DPW lacks comparable information, CGOBOC Liaison was advised that it does belong to a regional organization that has or can obtain comparative statistics. Moreover, the CSA should be able to provide some assistance in this area.)
4. Publicize decisions regarding which streets will be repaved. DPW advised the CGOBOC liaison that with respect to road repaving the project would concentrate most of the bond proceeds on streets categorized as either "good" and "fair" that together comprise 28% of the City's blocks. Those blocks with a "poor" grade (23%) would be repaired when additional funds are secured.
5. Break out bond monies. In addition to the proceeds from the Roadway Repaving and Street Safety Bond, road and street repair is also being funded by money from other governmental agencies and the City's general fund. In order for CGOBOC to accurately assess progress in the Repaving and Street Safety project, it is important that Quarterly Status Reports break out work funded by proceeds from the bond measure.

CGOBOC has received DPW's first Quarterly Status Report on the project and based on the information contained in that report, another meeting will be held before the DPW's next presentation to CGOBOC scheduled for November 2012.

**2000 Neighborhood Recreation and Parks - \$110 million - <http://parkbonds.sfgov.org/2000/>**

**2008 Clean and Safe Neighborhood Parks - \$185 million - <http://sfrecpark.org/2008Bond.aspx>**

*Liaison: Corey Marshall*

### **2000 Neighborhood Parks Improvement Bond Overview**

The 2000 Neighborhood Parks Improvement Bond is a \$110 million general obligation bond enacted in March 2000 for the acquisition, construction and reconstruction of San Francisco Recreation and Parks facilities. These funds were further leveraged with funding made available via the Open Space Fund, revenue bonds and private funds for a total program of more than \$257 million. Of the original 80 bond program projects – defined following passage of the bond in 2000 – the program has completed 75 capital projects. Four projects have been cancelled and one project remains active.

### **Status**

The Neighborhood Parks Improvement Bond was approved prior to the formation of the Citizens General Obligation Bond Oversight Committee (CGOBOC). Therefore, oversight for the 2000 Neighborhood Parks Improvement Bond does not technically reside with the CGOBOC. The committee has been actively identifying opportunities for learning and pursuing improvements that have been implemented for delivery of the 2008 bond and integrated into planning efforts for the bond passed in November 2012.

### **Recommendations**

1. **Thoroughly document lessons learned to inform future bond issues.** Since this bond program did not benefit from the structured oversight of CGOBOC, program staff should complete a comprehensive process of project close out to document the successes and shortcomings of project planning and delivery. Both city capital planning staff and department staff have already improved bond program planning with the development of the city's 10-year capital plan, but should also conduct a thorough operational review of project delivery procedures to benefit future bond programs in this department and others. This analysis should include consideration of the duration of bond project delivery; over 12 years, the Neighborhood Parks Improvement bond has been impacted by numerous factors – including economic conditions, construction costs, regulatory requirements and changing priorities – that could be better controlled or considered with a shorter bond delivery cycle.
2. **Conclude remaining projects as soon as possible.** Many of the lessons learned about challenges in project delivery have been learned via this bond program, which will conclude 12 years after voter approval. Capital planning and department program staff should work to close out all remaining work on these bond projects to focus efforts on subsequent (2008) and future (2012) bond programs.

### **2008 Clean and Safe Neighborhood Parks Bond Overview**

The 2008 Clean and Safe Neighborhood Parks General Obligation Bond is a \$185 million general obligation bond enacted in February 2008 for specific, voter-approved parks and open space recreation projects, to be completed by both RPD and the Port of San Francisco. These funds were further leveraged with funding made available via the revenue bonds, gifts, private funds, and funding from both the Bay Area Rapid Transit (BART) and the Port for a total program of more than \$213.6 million. Of the original 12 major RPD bond program projects, two have been



completed, seven are in construction, one is out for bid, two projects are in design, and one project is in the planning stage.

### **Status**

The Clean and Safe Neighborhood Parks bond is the first parks bond to come under the official authority of the CGOBOC. The committee has been actively engaged with the Recreation and Parks Department (RPD), meeting once per quarter for the past year to discuss project status and how previous project delivery challenges can inform these activities. The department completed significant project planning and preliminary environmental review in advance of passage of the 2008 bond, which has already proven beneficial. CGOBOC is further investigating ongoing project delivery challenges common to all bonds under the committee's jurisdiction, including procurement of consulting services to examine the city's community outreach methodology and the design review process for city construction.

### **Recommendations**

1. **Document lessons learned to inform future bond issues.** Program staff are actively engaged with identification of ways to streamline or expedite project delivery, but should iteratively document the successes and shortcomings of project planning and delivery to make adjustments in real time. Staff should actively coordinate and communicate with staff in all involved departments and active capital projects.
2. **Actively inform CGOBOC and Controller's studies of community outreach and design review.** These functions have been identified as potential points of delay and cost escalation and will be studied under contract with qualified consultancies. Department and project staff should closely coordinate efforts to ensure that any findings can be immediately acted upon to impact projects currently under way.
3. **Coordinate future bond planning efforts.** RPD has made great strides in improving pre-planning for bond programs, but coordination with other ongoing efforts can still be improved. This could lead to cost savings and opportunities to optimize engagement of construction contractors when delays happen.
4. **Clearly communicate project delivery constraints and sources.** While delays in project delivery may be inevitable, actively communicating the sources of those challenges both to CGOBOC and the public could enable more active response. Timely communication and coordination could potentially avoid costly delays and cost escalation.
5. **Set out a clear process for monies that are not fully spent.** There are approximately \$5M in unused funds from the 2000 bonds. We recommend using the process elaborated in the 2008 bond to ensure the best use of those funds for the many good capital projects as yet unfunded.

### **2000 Branch Library Facilities Improvement - \$105.9 million**

*Liaison: Corey Marshall*

*Web site: <http://sfpl.org/index.php?pg=2000002301>*

### **Overview**

The 2000 Branch Library Improvement Bond is a \$105.9 million bond approved by San Francisco voters in November 2000 to fund modernization and improvement of 24 branch library projects. These funds were further leveraged with funding made available via the Library Preservation

Fund, lease revenue bonds, grants and private funds for a total program of \$196.3 million. Of the original 24 bond program projects – including 7 site acquisitions, construction of 8 new branch libraries and renovation of 16 branches, defined following passage of the bond in 2000 – the program has completed 22 branch library projects. The project scopes for two remaining projects – North Beach Library and Bayview Library – were significantly changed from renovation to reconstruction. As a result, both projects have encountered numerous delays and project cost increases.

#### **Status**

The Branch Library Improvement Program (BLIP) was approved prior to the formation of the Citizens General Obligation Bond Oversight Committee (CGOBOC). Therefore, oversight for the 2000 Branch Library Improvement Bond does not technically reside with the CGOBOC. However, the committee has been actively engaged with the San Francisco Public Library (SFPL) and Department of Public Works (DPW), meeting once per quarter for the past year to discuss status of two remaining bond-funded projects and close out processes that can inform current and future bond planning efforts. Of the two remaining projects, Bayview is projected for completion in February 2013 and North Beach is anticipated to begin construction by Fall 2012.

Due to the length and complexity of the BLIP, department staff has also been actively identifying opportunities for learning and pursuing improvements that will be implemented for planning and project delivery of future bonds.

#### **Recommendations**

1. **Document lessons learned to inform future bond issues.** Since this bond program did not benefit from the structured oversight of CGOBOC, program staff should complete a comprehensive process of project close out to document the successes and shortcomings of project planning and delivery. Especially in light of challenges with project scoping and related project delivery, department staff should work with the Controller to determine opportunities for future improvement in the project delivery cycle as part of the bond closeout process. This analysis should include documentation of incidents and factors that have caused significant project delays and cost increases attributable to significant changes in scope, advance bond planning and structure, project sequencing, and program coordination to optimize project delivery.
2. **Conclude remaining projects as soon as possible.** Many of the lessons learned about challenges in project delivery have been learned from significant scope changes in this bond program driven by poor advance planning, which will conclude 12 years after voter approval. Capital planning and department program staff should work to close out all remaining work on these bond projects to focus efforts on future bond programs. With increasing levels of economic and construction activity, expediting final projects could mitigate any potential cost escalation caused by delays in project delivery.
3. **Review bid process to make sure the bond monies are being optimized.** Have a checklist for what the qualifiers should be looking for in addition to bid to ensure that the final price isn't significantly higher. Local hire, helping small businesses and unbundling contracts should be included as things to look at for the best bid.

## CONCLUSION FOR BOND OVERSIGHT

After BLIP, Laguna Honda and the 2000 Rec and Park bond, the general obligation bonds have been coming in more on time, on scope and on budget. We attribute this to better scoping out of the bond prior to beginning. MOUs, optimized community engagement processes, processes for monies that are not fully spent, and carefully thought-out bidding qualifications should all assist in ensuring that the citizens get what they voted for.



In addition to overseeing the general obligation bonds for the City and County of San Francisco, CGOBOC oversees the City Services Audits and the Whistleblower Program. Below are brief updates and recommendations for those two programs.

### **City Services Auditor**

*Liaisons: Rebecca Rhine and Terrance Flanagan*

The CGOBOC City Services Auditor liaisons have held quarterly meetings with the CSA since 2011, reviewed a number of reports and protocols and, as a result, submit the following recommendations:

- **Recommendation 1:** CSA should progressively expand benchmarking efforts by more fully incorporating into its reports efficiency measurements, including those dealing with worker productivity, assessment of the continuing need for a particular service or function, comparisons with other jurisdictions and, where appropriate, analysis of the benefits of adopting best practices from those other jurisdictions. CSA should integrate such efficiency/cost per unit information into the Budget and Performance Management System database to support these efficiency measurements.

**Rationale for Recommendation 1:** The framers of Proposition C that authorized the establishment of the CSA and the voters of San Francisco who approved it were explicit in defining the CSA's primary task. Section one of Appendix F of the City Charter specifically instructs the CSA to "...establish tools to enable residents to assess the effectiveness of city services...." (F1.100 [b]) To this end, the CSA should "... conduct comparisons of the cost and performance of San Francisco City government with other cities, counties and public agencies performing similar functions. In particular the CSA shall assess:

- Measures of workload, addressing the level of service being provided or providing an assessment of the need for a service;
- Measures of efficiency including cost per unit of service provided, cost per unit of output or units of service provided per full time equivalent position...."(F1.101 [a] 1-2).

Only by fully incorporating the efficiency measurements and comparative information prescribed in Appendix F into its reports will the CSA provide the citizens of San Francisco and its elected officials the information required for them to arrive at an

informed assessment of the efficiency of San Francisco City government in providing public services.

- **Recommendation 2:** CSA should develop and implement a detailed vetting process for using benchmarking data to evaluate the reasonableness and achievability of deliverables for infrastructure projects financed by general obligation bonds.

**Rationale for Recommendation 2:** The City and County of San Francisco's experience with recent infrastructure projects financed by general obligation bonds, including the restoration of the City's libraries and parks and the rebuilding of the Laguna Honda Hospital, clearly demonstrates the need for a comprehensive vetting process that evaluates the achievability of goals contained in the project plans as well as verifying that the deliverables represent the most cost effective use of the funding available. Ideally, this vetting process ought to occur before the public is asked to approve a bond measure; however, if this is not practical, then it should be conducted in time for it to be appended to the initial project plan submitted to CGOBOC by the project manager. At various stages of a project, the plan would be "re-certified". Given the current structure of the city government, it would appear that the appropriate unit to conduct such reviews is the CSA.

#### **Whistleblower Program**

*Liaisons: John Madden and Regina Callan*

The Committee also oversees the Controller's administration of the Whistleblower Program, which handles complaints on the quality and delivery of government services, wasteful and inefficient city government practices, misuse of government funds, and improper activities by city government officials, employees, and contractors. The Controller's staff evaluates and forwards complaints to the appropriate agency, including having the Controller investigate and attempt to resolve the complaints when appropriate. From January 1 through March 31, 2012, there were 117 complaints filed and reopened, and 112 complaints closed, leaving 48 complaints open as of March 31, 2012. Eighty-eight percent of complaints were closed within 90 days. Twenty-three complaints were sustained in full or in part, or resulted in a department taking a corrective or preventive action. Retaliation against whistleblowers is illegal and the Ethics Commission investigates retaliation complaints. During that quarter, 12 retaliation complaints were filed and opened, with three closed.

#### **Recommendations**

1. Administrators of the Whistleblower Program should continue working with 311 Call Center to efficiently and accurately route calls to departments or Whistleblower as appropriate. This makes the Whistleblower work more efficient as they then can spend more time investigating fraud and abuse issues without having to deal with issues more appropriately under departmental domain.
2. Also, Whistleblower administrators should continue working with departments and employee groups to publicize the availability of the Whistleblower Program. They have recently made some changes to the on-line complaint form to make filing easier.
3. Delays seem to fall into two categories: (1) slow department response to inquiry and (2) complexity of issues requiring the involvement of multiple city departments and

agencies (e.g., Human Resources, City Attorney, District Attorney, and other departments, boards, or commissions).

We appreciate this opportunity to provide you with an update for the Citizens General Obligation Bond Oversight Committee. Please do not hesitate to contact us with any questions or comments you may have.

**Citizen's General Obligation Bond Oversight Committee**  
**2011 Annual Report**  
**To be presented to the Government Audit & Oversight Committee**  
**December 2012**

November 28, 2012

TO: STATE, COUNTY AND CITY OFFICIALS

**NOTICE OF APPLICATION FILING OF PACIFIC GAS AND ELECTRIC COMPANY'S  
2014 GENERAL RATE CASE (GRC) A. 12-11-009**

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On November 15, 2012, Pacific Gas and Electric Company (PG&E) filed a proposed Application (12-11-009) with the California Public Utilities Commission (CPUC) requesting authority to increase the base revenue that PG&E uses to operate and maintain its electric and gas distribution and electric generation facilities. The request also includes the cost of owning and building additional electric and gas distribution and electric generation facilities.

**PG&E is requesting a total increase of \$1.282 billion for gas and electric service, effective January 1, 2014.**

PG&E's proposal would increase the monthly electric bill for typical residential bundled-service customers (those who receive electric generation, as well as transmission and distribution service from PG&E) using 550 kilowatt hours (kwh) per month by \$4.61 or 5.2% from \$89.36 to \$93.97, and for typical residential gas customers using 37 therms per month by \$7.06 or 15.3% from \$46.13 to \$53.18.

The proposed electric and gas rate increase consists of the following:

An increase in electric revenues of \$796 million over the currently authorized level for 2014. The increase is made up of two components: (1) the cost of delivering electricity to PG&E's customers (\$587 million); and (2) the cost of operating and maintaining PG&E's power plants (\$209 million). This increase does not include the cost of electricity procured for PG&E's customers or the cost of fuel used in generating electricity by PG&E, which are recovered in a separate proceeding; and (3) an increase in gas revenues of \$486 million over the currently authorized level for 2014. The increase does not include gas procured for PG&E's customers, which is recovered in a separate proceeding.

PG&E is also requesting approval for additional base revenues in 2015 and 2016 to cover additional infrastructure improvements and increased costs of labor, materials, supplies and other expenses. PG&E estimates that these increases will total \$492 million in 2015 and \$504 million in 2016.

**Key reasons why PG&E is asking for increases:**

This funding request reflects PG&E's commitment to provide its customers with safe and reliable service. PG&E is building a safer and more reliable energy system that will continue to help California remain competitive on a national and global scale. The funding will be used to:

- Assure a high level of public safety in the operation of PG&E's gas and electric facilities;
- Invest in and maintain the system of power plants, poles, wires, pipes and equipment needed to deliver electricity and gas to PG&E's customers; and
- Improve customer service and maintain the support structure necessary to keep PG&E operating and to provide PG&E's customers with safe, reliable and responsive customer service.

**Estimated impact of this proposed request on gas and electric rates**

PG&E provided estimates of the impact on each customer class of its proposed gas and electric rate increases in a bill insert that was sent directly to customers beginning on November 29, 2012. All customers will have received the bill insert by mid-January 2013. The actual distribution of the requested \$796 million electric rate increase and the requested \$486 million gas rate increase to each customer class depends on how the CPUC ultimately decides all issues in the GRC, as well as in separate electric and gas rate design proceedings that are expected to be filed with the CPUC during the first and third quarters of 2013, respectively.

**If the CPUC approves PG&E's proposed request for an electric rate increase, the bill for a typical residential customer using 550 kilowatt hours per month would increase by \$4.61 or 5.2% from \$89.36 to \$93.97. If the CPUC approves PG&E's proposed request for a gas rate increase, the bill for a typical residential customer using 37 therms per month would increase by \$7.06 or 15.3% from \$46.13 to \$53.18. Individual customer bills may vary. Rates would become effective January 1, 2014.**

**What is a General Rate Case?**

Every three or four years, investor-owned utilities such as PG&E are required to file a General Rate Case (GRC) in which the CPUC sets annual base revenue levels. Annual base revenue is the total amount of money a utility collects through rates in a given year for specific purposes. PG&E's GRC base revenues do not include fuel-related costs addressed in the CPUC's Energy Resources

Recovery Account proceedings, electric transmission-related costs addressed at the Federal Energy Regulatory Commission, or gas transmission and storage costs which are filed in a separate application.

After PG&E's GRC proposal is reviewed in a public process, the CPUC then makes a decision on what is reasonable for customers to pay in rates. While the GRC will determine the total amount of money PG&E can collect in rates, the design of the actual rates themselves (that is, the price charged to customers) will be determined in separate proceedings to be filed in the future with the CPUC. The GRC is publicly available to ensure transparency and opportunity for public involvement.

### **PUBLIC PARTICIPATION HEARINGS**

The CPUC welcomes the public's participation. Before deciding on PG&E's application, the CPUC will hold public participation hearings (PPH) to provide customers with an opportunity to express their views before a CPUC Administrative Law Judge (ALJ). Notification of these hearings will be sent to you either by a separate mailing or included as a bill insert in your monthly bill. The notice will identify all of the locations that the PPHs are being held for your convenience and planning. Those customers who cannot attend a hearing may submit written comments to the CPUC at the address listed below. All such correspondence to the CPUC should reference PG&E's 2014 GRC application (A.12-11-009).

### **FOR FURTHER INFORMATION**

If you have questions regarding the GRC application or for more details, please contact PG&E at **1-800-743-5000**.

For TDD/TTY (speech-hearing impaired), call **1-800-652-4712**.

Para más detalles llame al **1-800-660-6789** • 詳情請致電 **1-800-893-9555**

If you would like a copy of the application and exhibits, please write to PG&E at the address below:

Pacific Gas and Electric Company  
2014 General Rate Case Application  
P.O. Box 7442, San Francisco, CA 94120

You can also view PG&E's GRC application and exhibits online at [www.pge.com](http://www.pge.com).

A copy of PG&E's 2014 GRC application and exhibits is also available for review at the CPUC, 505 Van Ness Avenue, San Francisco, CA 94102, Monday–Friday, 8 a.m.–noon. A copy of the application (without exhibits) is available on the CPUC's website at [www.cpuc.ca.gov/puc](http://www.cpuc.ca.gov/puc).

### **THE CPUC PROCESS**

The CPUC's Division of Ratepayer Advocates (DRA) will review this application. The DRA is an independent arm of the CPUC, created by the Legislature, to represent the interests of utility customers throughout the state and obtain the lowest possible rate for service consistent with safe and reliable service levels. DRA has a multi-disciplinary staff with expertise in economics, finance, accounting and engineering. The DRA's views do not necessarily reflect those of the CPUC. Other parties of record will also participate.

### **Evidentiary Hearings**

In addition to public participation hearings, the CPUC will also schedule Evidentiary Hearings (EHs) for the GRC application in 2013 where parties of record present their proposals in testimony and are subject to cross examination before the ALJ. These hearings are open to the public, but only those who are formal parties of record can present evidence or cross-examine witnesses during EHs. Members of the public may attend, but are not allowed to participate in the hearings. After considering all proposals and evidence presented during the hearing process, the ALJ will issue a draft decision. When the CPUC acts on the application, it may adopt all or part of PG&E's request, amend or modify it, or deny the application. The CPUC's final decision may be different from the ALJ's draft decision.

Public Advisor's Office 505 Van Ness Avenue Room 2103 San Francisco, CA 94102	<b>1-415-703-2074</b> or <b>1-866-849-8390</b> (toll free) TTY <b>1-415-703-5282</b> or <b>1-866-836-7825</b> (toll free) Email to <a href="mailto:public.advisor@cpuc.ca.gov">public.advisor@cpuc.ca.gov</a>
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If you are writing a letter to the Public Advisor's Office, please include the number of the application (A.12-11-009) to which you are referring. All comments will be circulated to the Commissioners, the assigned ALJ and the CPUC's Energy Division Staff.



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**DELTA STEWARDSHIP COUNCIL**

980 9th Street, Suite 1500

Sacramento, CA 95814

(916) 445-5511

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Please find enclosed:

1. Notice of Availability of a Recirculated Draft Program Environmental Impact Report for the Delta Plan
2. Delta Stewardship Council Notice of Proposed Rulemaking

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## NOTICE OF AVAILABILITY OF A RECIRCULATED DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE DELTA PLAN

The Delta Stewardship Council, an independent state agency, is issuing this notice to advise the public that a Recirculated Draft Program Environmental Impact Report (Recirculated Draft PEIR) for the Delta Plan, which is Volume 3 of the Draft Program Environmental Impact Report for the Delta Plan, has been prepared and is now available for public review and comment for 45 days, from November 30, 2012 through (and including) January 14, 2013. This notice is provided pursuant to noticing requirements found in the California Environmental Quality Act (CEQA) (Public Resources Code Sec. 21092), and the State CEQA Guidelines (Guidelines Sec. 15087).

### SUMMARY

In November 2009, the California Legislature enacted SBX7 1. It requires the Delta Stewardship Council (Council) to develop, adopt, and implement the Delta Plan, a legally enforceable, comprehensive, long-term management plan for the Sacramento–San Joaquin Delta and the Suisun Marsh (Delta) that furthers the coequal goals (Water Code section 85300(a)). “Coequal goals’ means the two goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place” (Water Code section 85054). Furthering achievement of the coequal goals is a primary and fundamental purpose of the Delta Plan.

The Recirculated Draft PEIR analyzes the significant adverse environmental effects of the November 2012 Final Draft Delta Plan. The Council developed the Final Draft Delta Plan in response to comments received on the August 2011 Fifth Staff Draft Delta Plan and the November 2011 Draft Program Environmental Impact Report (Draft PEIR), which analyzed the Fifth Draft Delta Plan and consists of Volumes 1 and 2. **A Final Draft Delta Plan to meet the requirements of SBX7 1 has been prepared and is the project being evaluated in the Recirculated Draft PEIR, which is Volume 3 of the Draft PEIR.** For the purposes of this Recirculated Draft PEIR, the Fifth Staff Draft Delta Plan analyzed in the November 2011 Draft PEIR is referred to as the “Proposed Project” or the “Proposed Project Alternative.” The Final Draft Delta Plan analyzed in the Recirculated Draft PEIR is the “Revised Project.”

### PROJECT DESCRIPTION AND PROJECT AREA

The Final Draft Delta Plan covers five topic areas and goals: increased water supply reliability, restoration of the Delta ecosystem, protection and enhancement of the Delta as an evolving place, improved water quality, and reduced risks of flooding in the Delta. The Delta Plan does not propose or contemplate the Council constructing, owning, or operating any facilities related to these five topic areas, however. Rather, the Delta Plan contains regulatory policies, recommendations, performance measures and issues for further evaluation and coordination that seek to influence and encourage actions, activities and projects of cities, counties, and State, federal, regional and local agencies that will further achievement of the coequal goals. Examples of the types of actions/activities the Delta Plan seeks to influence and encourage include, but are not limited to: new or expanded water storage reservoirs; wetlands and riparian restoration; invasive species management; water flow patterns in the Delta; water, wastewater, stormwater and agricultural runoff water treatment; levee modification and construction; floodplain expansion; new/improved active and passive recreation opportunities in the Delta.

The focus of the Delta Plan is on the Delta and Suisun Marsh, although the Delta Plan could have influence beyond the Delta. The Delta area is generally located west of Sacramento and east of the San Francisco Bay area within the network of waterways formed primarily by the confluence of the Sacramento and San Joaquin rivers. Activities the Delta Plan could influence in the Delta and Suisun Marsh could include, for example, levee improvements, wetlands restoration, and recreation projects, among others. Accomplishing the coequal goals across the five topic areas the Delta Plan covers, however, could involve physical actions (should other agencies undertake them) in areas outside the Delta, including the Delta Watershed to the north of the Delta and other areas that currently rely on water exported from the Delta. These areas include, for example, portions of the Sacramento and San Joaquin Valleys and southern California. Activities the Delta Plan could influence in those areas could include, for example, groundwater storage enhancements, new/expanded reservoirs, and treatment plants, among others.

### DOCUMENT AVAILABILITY

Copies of the Recirculated Draft Delta Plan Program EIR are available online at the Delta Stewardship Council’s Web site: <http://www.deltacouncil.ca.gov>. You can obtain a CD-ROM copy of the Recirculated Draft PEIR by sending an e-mail with the subject line “Request for CD-ROM Copy of Recirculated DPEIR” to [recirculateddpeircomments@deltacouncil.ca.gov](mailto:recirculateddpeircomments@deltacouncil.ca.gov) or by calling 916-445-0144. A copy of the Recirculated Draft PEIR and any documents incorporated by reference are also available for viewing at the Delta Stewardship Council offices located at 980 9th Street, Suite 1500, Sacramento, CA 95814. Lastly, a copy of the Recirculated Draft PEIR is available in the main branch of each County library in counties that possibly could be affected by the Delta Plan; addresses for these libraries can be found at <http://www.deltacouncil.ca.gov>.

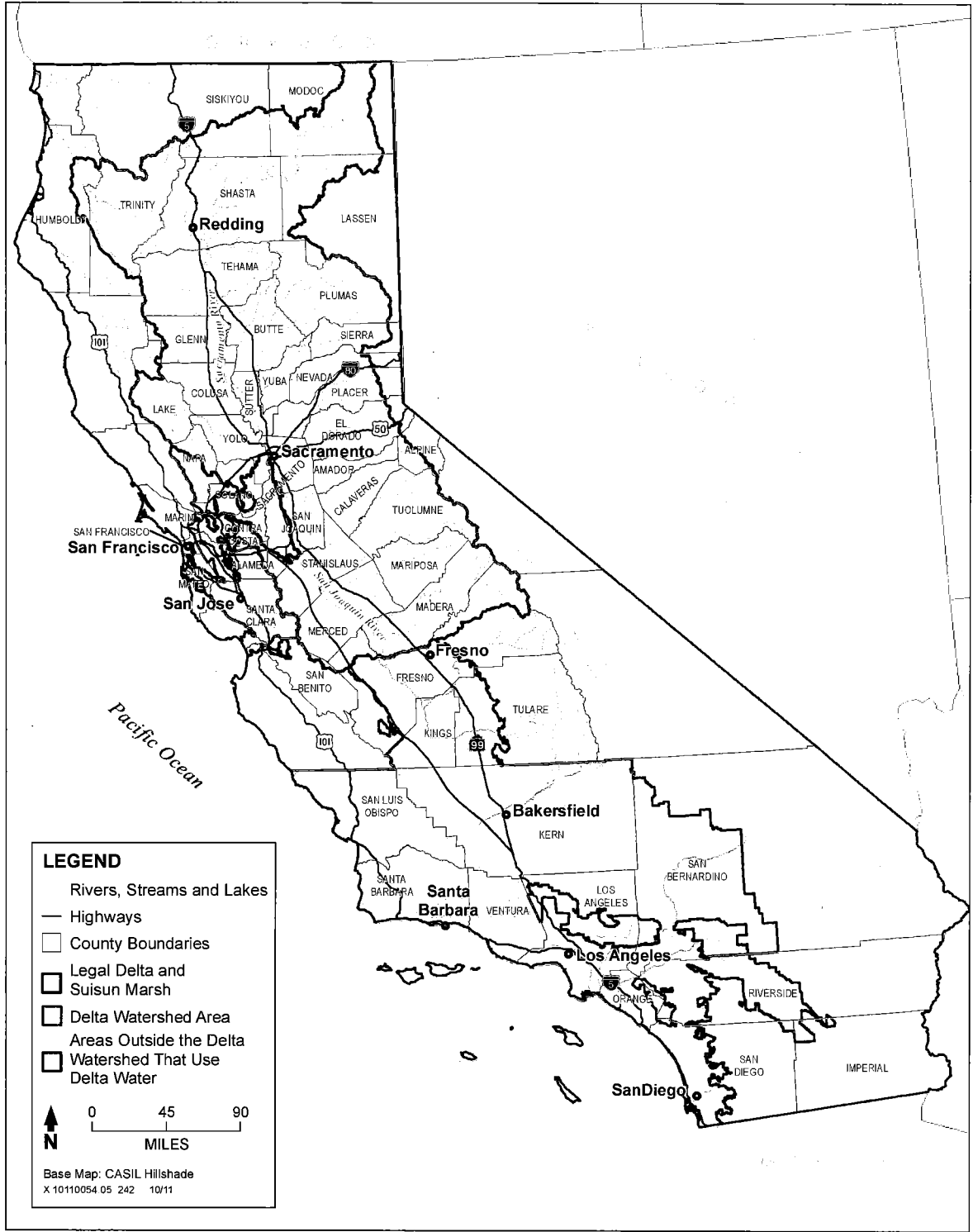
**PROVIDING COMMENTS ON THE RECIRCULATED DRAFT PEIR**

Written comments on the Recirculated Draft Delta Plan Program EIR should be provided to the Delta Stewardship Council on or before January 14, 2013. Written comments on the Recirculated Draft Delta Plan Program EIR should be sent to: "Recirculated Draft PEIR Comments," Delta Stewardship Council, 980 Ninth Street, Suite 1500, Sacramento, CA 95814.

Comments on the Recirculated Draft Delta Plan Program EIR also may be submitted electronically through the Delta Stewardship Council's web site at <http://www.deltacouncil.ca.gov>, or via e-mail with the subject line "Recirculated Draft EIR" to [recirculateddpeircomments@deltacouncil.ca.gov](mailto:recirculateddpeircomments@deltacouncil.ca.gov).

**FOR FURTHER INFORMATION CONTACT:** Cindy Messer, Acting Deputy Executive Officer, Delta Stewardship Council, 980 9th Street, Suite 1500 , Sacramento, CA 95814 (telephone: 916-445-0144 or 916-445-0258).

**ANTICIPATED SIGNIFICANT ENVIRONMENTAL EFFECTS OF THE PROJECT:** The Council does not propose construction, operation, or maintenance of any facilities as part of the Delta Plan. Rather, the Council seeks to influence and encourage other agencies to take certain actions. The degree to which that influence or encouragement results in physical changes to the environment is uncertain, and depends upon what specific actions those other agencies propose. The Recirculated DPEIR takes a conservative approach, however, in concluding that activities/projects other agencies could implement that the Delta Plan could influence may have significant environmental impacts to resources in the following areas: water resources, biological resources, flood management, land use and planning, agriculture and forestry resources, visual resources, air quality, cultural resources, geology and soils, paleontological resources, mineral resources, hazards and hazardous materials, noise, recreation, transportation, utilities, climate change and greenhouse gas emissions.



NOTICE OF AVAILABILITY OF A RECIRCULATED DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE DELTA PLAN SCH #2010122028

**Title 23. Water**  
**Division 6. Delta Stewardship Council**  
**Notice of Proposed Rulemaking**

The Delta Stewardship Council (hereafter Council) proposes to adopt the proposed regulation described below after considering comments, objections, and recommendations regarding the proposed action.

*Opportunity for Public Comment*

- Public Hearings. The Council will hold one public hearing. This hearing will be held in accordance with the requirements set forth in Government Code section 11346.8.

Date: January 24, 2013

Time: The public hearing will convene at 9:30 a.m. and remain open as long as attendees are presenting testimony.

Location: Ramada Inn & Suites

1250 Halyard Drive, West Sacramento, CA 95691

- Written Comment Period. The opportunity to submit written comment begins November 30, 2012, and closes January 14, 2013. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. Submit written comments to:

Cindy Messer

Delta Stewardship Council

980 Ninth Street, Suite 1500

Sacramento, CA 95814

(916) 445-0258

cindy.messer@deltacouncil.ca.gov

*Authority and Reference*

Water Code section 85210(i) authorizes the Council to adopt the proposed regulations. The proposed regulations implement, interpret, and make specific sections 10608, 10610.2, 10610.4, 10801, 10802, 85020, 85021, 85022, 85023, 85032, 85052, 85054, 85057.5, 85058, 85059, 85225, 85300, 85302, 85303, 85305, 85306, 85308, 85001(c), and 85004(b) of the Water Code. The proposed regulations make references to: sections 1702, 8201, 9600 et seq., 10608.12, 10610 et seq., 10853, 12300 et seq., 12570 et seq., 12930, 12980 et seq., 12994.5, 85001(c), 85004(b), 85020(a), 85020(d), 85020(h), 85032(j), 85087, 85210(i), 85304, Division 6, Parts 2.55, 2.6, and 2.8 of the Water Code; sections 12220, 21065, 21080(b), 29101 of the Public Resources Code; California Code of Regulations, Title 23, Division 1; 33 C.F.R. Section 320.4(i)(1), 16 U.S.C. Sec. 1451 et seq., 33 U.S.C. Sec. 1251 et seq., 42 U.S.C. 4001 et seq., P.L. 84-99, P.L. 90-448, and Section 226 of P.L. 97-293.

*Informative Digest*

**Policy Statement Overview Explaining the Broad Objectives of the Regulations**

In 2009 the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act), Water Code sections 85001 through 85308, established a new governance approach for the Sacramento-San Joaquin Delta (Delta) that is focused on achieving the coequal goals. As stated in the California Water Code, “‘Coequal goals’ means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place” (Water Code section 85054).

Under the authority stated in the Delta Reform Act, the Council proposed to adopt and implement the Final Draft Delta Plan, November 2012 (Delta Plan), which includes a suite of regulatory policies, to ensure achievement of the coequal goals and the objectives inherent in the coequal goals, including long-term management of the Delta's water and environmental resources and the water resources of the state; protecting and enhancing the unique cultural, recreational, and agricultural values of the Delta as an evolving place; restoring the Delta ecosystem; promoting statewide water conservation, water use efficiency, and sustainable water use; improving water quality to protect human health and the environment; improving the water conveyance system and expanding statewide water storage; reducing risks to people, property, and State of California (State) interests in the Delta; and establishing a governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

Throughout the three-year process of developing the Delta Plan and the Draft Program Environmental Impact Report (PEIR), the Council sought extensive public, stakeholder, and government agency input. Using input from the broad base of expertise and resources, the Council developed a long-term management plan for the Delta that used the best available science and was built upon the principles of adaptive management. The Delta Plan contains a foundational set of policies and recommendations to guide Plan implementation. Consistent with the Delta Reform Act, the regulatory policies set a comprehensive, legally enforceable direction for how the State manages important water and environmental resources in the Delta, and ensure coherent and integrated implementation of that direction through a certification process.

#### **Policy Statement Overview Explaining the Specific Benefits Anticipated from the Proposed Action**

Implementation of Delta Plan policies would provide the best means to achieve the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The comprehensive set of policies would ensure that the coequal goals will be achieved in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place while reducing risks to people, property, and State interests in the Delta.

#### **Summary of Existing Laws and Regulations Related Directly to the Proposed Rulemaking**

The Delta Plan draws upon existing State and federal laws and policies and ongoing programs to chart a course to further the coequal goals. The regulatory policies are all targeted toward the goal of aligning significant activities in the Delta with State policy priorities. Since no single entity in California has the sole responsibility or authority for managing water supply and the Delta ecosystem, the Council asserts its leadership role through the appellate authority vested by the Delta Reform Act to enforce the regulatory policies contained in the Delta Plan.

Consistent with sections 85302 to 85308 of the Water Code, the proposed regulatory policy actions contained in the Delta Plan constitute measures that promote all the characteristics of a healthy Delta ecosystem; a more reliable water supply; actions to implement the sub-goals and strategies for restoring a healthy ecosystem; statewide water conservation, water use efficiency, and sustainable use of water; options for new and improved infrastructure; and effective emergency preparedness, appropriate land uses, and strategic levee investments to reduce risks to people, property, and State interests in the Delta.

#### **Consistency with Existing State Laws and Regulations**

The Council developed the Delta Plan consistent with the following sections of Water Code: Section 85302 through 85306 specifying requisite content of the Delta Plan. Furthermore, the Council developed the Delta Plan consistent with existing laws and regulations.

- Water Code section 85031(a). The proposed regulations, under the authority provided in the Delta Reform Act, do not affect water rights protections under existing laws. Water Code

section 85031(d). The proposed regulations, under the authority provided in the Delta Reform Act, do not affect existing authorities of the State Water Resources Control Board or the courts to regulate the diversion and use of water.

- Water Code section 85032. The proposed regulations, under the authority provided in the Delta Reform Act, do not affect the Natural Community Conservation Planning Act; the California Endangered Species Act; the Fish and Game Code; the Porter-Cologne Water Quality Control Act; Water Code section 12930 related to Water Resources Development Bonds; the California Environmental Quality Act; Water Code section 1702 related to change of point of diversion, place of use, or purpose of use, the application of the public trust doctrine, any water right, or the liability of the State for flood protection in the Delta or its watershed.

In addition to the consistency of the regulatory policies with the above listed laws, the policies are also consistent with existing laws and regulations that relate to specific policies, as discussed below:

- Terms such as *Agricultural water management plan*, *agricultural water supplier*, *coequal goals*, *Delta*, *Delta Plan*, *urban area*, *urbanizing area*, *urban water management plan*, *urban water supplier*, *urban retail water supplier*, and *urban wholesale water supplier* are all defined consistent with the Water Code.
- Covered action is defined pursuant to Water Code section 85057.5. The definition of a “project” is as defined in Public Resources Code section 21065. Exemptions to the covered action definition are consistent with Water Code §85057.5(b) and Public Resources Code §21080(b) and §21002.1(c).
- Requiring mitigation measures is consistent with CEQA contained in the Public Resources Code §21002.1(b).
- Requiring reduced reliance on the Delta is consistent with the Delta Reform Act contained in Water Code §85021, the Urban Water Management Planning Act contained in Water Code §10610-10610.4, and the Agricultural Water Management Planning Act contained in Water Code §10820-10821. It is also consistent with Water Code §85023 mandating the use of the constitutional principle of reasonable use and the public trust doctrine as the foundation of State water management policy. The reasonable use doctrine is described in the California Constitution, Article 10, Sec. 2.
- The water contracting transparency requirement is consistent with existing policies of the Department of Water Resources (DWR) contained in DWR Guidelines 03-09 and/or 03-10 (each dated July 3, 2003), as well as section 226 of P.L. 97-293 or section 3504(a)(2)(B) of P.L. 102-575.
- The development, implementation, and enforcement of new and updated flow objectives are consistent with the authorities and responsibilities of the State Water Resources Control Board (SWRCB) and regional water quality control boards pursuant to Water Code §13000-13002 and §13240-13242. The Federal Clean Water Act (33 U.S.C., section 1251 et seq.) regulates the discharge of pollutants into the waters of the United States and regulates quality standards for surface waters. Federal Regulations, 40 CFR 131.37, established water quality criteria applicable to waters specified in the Water Quality Control Plan for Salinity for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. Although the attainment of salinity standards and fish migration criteria would be influenced by flows and Delta operation, the SWRCB may not have to submit the updated flow objectives to U.S. Environmental Protection Agency (EPA) for approval as long as the regulatory standards are met. Nevertheless, it is expected that the SWRCB will provide the updated flow objectives to U.S. EPA for its consideration in accordance with Water Code §13144.
- The policies on Delta habitat restoration are consistent with the California Environmental Quality Act described in the Public Resources Code §21000-21006; the Suisun Marsh Protection Plan described

in the Public Resources Code §29000-29014; the Delta Protection Act of 1992; Water Code §8611, which requires the Central Valley Flood Protection Board to develop a mitigation plan prior to flood control construction; and Water Code §12842, which requires flood control and watershed protection projects to include features to preserve the state's fish and wildlife resources and to provide for recreation.

- The policies to reduce risks in the Delta are consistent with the State's flood management interests in §8325 and §8532 of the Water Code, and §29702(d) and §29704 of the Public Resources Code. The policies will further the intent of the Central Valley Flood Protection Act of 2008 mandating a 200-year level of flood protection in urban and urbanizing areas, contained in Government Code §65865.5.
- Prohibiting encroachments and protecting floodplain functions and values will further the intent contained in sections 8410, 8608, and 8609 of the Water Code. Protecting floodways and floodplains also furthers the authorities of the State Lands Commission, as stated in Public Resources Code §6001-6314, to enforce public trust protection onto swamp and overflowed lands in the Delta. These regulations complement federal regulatory authority and responsibilities in the Delta, described in C.F.R. Title 44, Chapter 1, Parts 60.3(d)(3), and Code of Federal Regulations, Title 44, Chapter 1, §9.11 (4).
- Policies to protect private property rights are consistent with Public Resources Code §29714.
- The policy does not increase the State's flood liability, consistent with Water Code §85032(j).

#### **Substantial Differences from Existing, Comparable Federal Regulations or Statutes**

To avoid substantial difference with existing comparable federal regulation or statute, the Delta Plan was developed in accordance with the Delta Reform Act requirement of consistency with the federal Clean Water Act, section 8 of the federal Reclamation Act of 1902, and the federal Coastal Zone Management Act of 1972, or an equivalent compliance mechanism. (Water Code §85300(d)(1))

In addition, the federal Energy and Water Development Appropriations Act of 2012 (Title II of the Consolidated Appropriations Act of 2012 (P.L.112-074)) requires that federal policy for addressing California's water supply and environmental issues related to the Bay-Delta to be consistent with State law, including the coequal goals.

The proposed regulations are consistent with and complement existing federal regulations and statutes.

#### **Whether the Proposed Regulation Is Inconsistent or Incompatible with Existing State Regulations**

None of the proposed regulations are inconsistent or incompatible with existing state regulations. The Council has developed these regulations in alignment with existing state law and regulations. The section above titled "Summary of Existing Laws and Regulations Related Directly to the Proposed Rulemaking" provides a detailed explanation of how individual policies proposed in the regulation are consistent with existing laws and regulations.

#### ***Documents Incorporated by Reference***

None. Definitions, policies, and other portions of the Delta Plan are included within the text of the proposed regulation or attached as appendices.

#### ***Mandated by Federal Law or Regulations***

The proposed regulations are not mandated by federal law or regulations, although they complement their intents and further their implementation in the Delta.



### *Other Statutory Requirements*

None.

### *Local Mandate*

Government Code section 17556 provides that no mandate exists where "(d) The local agency or school district has the authority to levy assessments, rates, fees, or other charges sufficient to pay for the mandated program or increased level of service." The Cost Analysis for Proposed Delta Plan Regulations provides general information on the authority and mechanisms by which local agencies in the Delta can recover any costs potentially resulting from the proposed regulation. Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4, Government Code, other nondiscretionary costs or savings imposed on local agencies, or costs or savings in federal funding to the state are not expected.

### *Fiscal Impact*

The fiscal effects of Delta Plan policies and administrative requirements to state and local agencies occur in two forms. First, administrative requirements require State and local agencies undertaking a covered action to prepare and file a Certification of Consistency. This includes description of the covered action, CEQA documentation, summary of other government approvals, and the certification of consistency with each of the Delta Plan policies.

The agency may also incur the costs of consulting with the Council prior to submitting a Certification of Consistency, or the costs relating to an appeal of the certification, such as submitting the covered action record, attending and providing testimony at the appeal hearing, and, if the Council upholds the appeal, modifying and re-filing the Certificate of Consistency.

Second, implementation of Delta Plan policies may result in costs to State and local agencies resulting from modifications to an agency's existing plans for covered actions to make them consistent; development of covered actions that are different than what the agency would have done in absence of the Delta Plan, changes in water supply reliability, ecosystem restoration, or flood risk that affect an agency whether or not it has proposals for covered actions; and administrative costs to monitor Council activities, attend meetings, and review documents and findings.

It is anticipated that costs would be recovered by an agency of a covered action through assessments, rates, user fees, or other mechanisms the agencies use to fund activities. While in some cases State or local agencies would be able to absorb the additional costs within their existing budgets and resources, other circumstances may require the aforementioned funding mechanisms.

The total cost State and local agencies may incur to prepare and file a Certification of Consistency and implement Delta Plan policies could range from \$11.9 to \$16.8 million annually. A document titled "Cost Analysis for Proposed Delta Plan Regulations" provides a detailed analysis of the cost to State and local agencies of Delta Plan regulations, and is available for review.

### *Housing Costs*

No significant direct impacts on housing costs are likely to occur from implementation of Delta Plan policies. The benefits and costs of Delta Plan policies can have complex and counteracting effects on housing prices. For housing directly affected by covered actions, Delta Plan policies may increase housing costs for two reasons: consistency certification costs will likely be passed on, at least in part, to buyers; and the benefits of improved flood protection and ecosystem amenities could increase property value, thereby increasing housing costs. Importantly, the Delta Plan policies are expected to provide substantial benefits to housing by increasing value due to improved flood protection, water supply reliability, and environmental amenities. A document titled "Cost Analysis for Proposed Delta Plan

Regulations” provides a detailed analysis on the effects of the Delta Plan regulations on housing costs, and is available for review.

#### *Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States*

Although the total indirect cost of Delta Plan policies to private business or individuals is uncertain, the proposed action is not anticipated to have significant statewide adverse economic impact directly affecting business, including the ability to compete with businesses in other states.

#### *Statement of the Results of the Economic Impact Assessment*

Although the total indirect cost of Delta Plan policies to private business or individuals is uncertain, the proposed action is not anticipated to have significantly impact on:

1. The creation or elimination of jobs within the State of California
2. The creation of new businesses or the elimination of existing businesses within the State of California.
3. The expansion of businesses currently doing business within the State of California.

The proposed action would provide significant long-term benefits to the state by meeting the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The comprehensive set of policies would ensure that the coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place, improving the welfare and state’s environment.

#### *Cost Impacts on Representative Person or Business*

Delta Plan policies and administrative requirements apply to State and local agencies. Private businesses and individuals are not directly affected by costs of Delta Plan policies or administrative requirements. However, private businesses and individuals could be affected indirectly in two ways. First, costs could be passed directly to private businesses and individuals by an agency proposing a covered action. Second, cost could be recovered by an agency of a covered action through taxes, user fees, assessments, or other mechanisms the agencies use to fund activities. The total indirect cost of Delta Plan policies to private business or individuals is uncertain.

Because private businesses and individuals are not directly affected by costs of Delta Plan policies or administrative requirements, the Council is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This statement is accurate also for small business.

#### *Business Reporting Requirements*

The proposed regulations require State and local agencies undertaking a covered action to prepare and file a Certification of Consistency. However, the administrative requirements of the proposed regulations do not apply to business or private individuals. Therefore, the report requirement does not apply to business.

#### *Small Business*

The proposed regulatory policies do not affect small businesses. The direct cost of the proposed regulatory policies falls on State and local public agencies, not on businesses. Businesses in general are affected by: 1) costs passed on by a local agency through assessments, rates, fees, or other charges; and 2) benefits foregone if a covered action must be modified to comply with Delta Plan policies. There is no evidence that small businesses would be disproportionately affected or overly burdened by the proposed regulations.

Several policies are specifically designed to avoid impacts on small businesses in the Delta. For example, limitations on construction or development in the Delta (§5012) specifically exempt “commercial recreational visitor-serving uses or facilities for processing of local crops or that provide essential services to local farms.” Also, §5013 directs covered actions to avoid conflicts with existing land uses including farming.

#### *Alternatives Statement*

The Council must determine that no reasonable alternative considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Council has prepared an initial statement of reasons that contains an analysis of alternatives considered and rejected due to reasons as described. Interested persons may present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### *Contact Persons*

Inquiries concerning the proposed administrative action may be directed to:

Cindy Messer  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814  
(916) 445-0258  
cindy.messer@deltacouncil.ca.gov

Dan Ray  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814  
(916) 445-5511  
dan.ray@deltacouncil.ca.gov

#### *Availability Statements*

The following materials are available for public review throughout the public comment period:

- Text of Proposed Regulation
- Notice of Proposed Rulemaking
- Initial Statement of Reasons
- Materials Relied Upon
- Form 400
- Form 399
- Final Statement of Reasons (upon completion)
- Final Text of Regulation (upon completion)

These materials may be viewed in two ways:

- Visiting the Council’s website (<http://deltacouncil.ca.gov>)
- Arranging an in-person review. Please contact Cindy Messer (contact information provided above).

After holding the hearing and considering all timely and relevant comments received, the Council may adopt the proposed regulations substantially as described in this notice. If the Council makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Council adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Cindy Messer at the address indicated above. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available.

*Final Statement of Reasons*

The Final Statement of Reasons will be posted on <http://deltacouncil.ca.gov>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

*Internet Access*

All materials published or distributed by the Council are available at its internet website at <http://deltacouncil.ca.gov>



San Francisco  
Water Power Sewer

Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor  
San Francisco, CA 94102  
T 415.554.3155  
F 415.554.3161  
TTY 415.554.3488

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*Orig Leg Dep  
C: COB, cpage  
BTF chair + clerk*

December 10, 2012

Angela Calvillo  
Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

**Subject: Community Choice Aggregation Program  
Release of Reserve, \$1,443,500**

Dear Ms. Calvillo:

I would like to request your assistance to have calendared the release of reserve for the Community Choice Aggregation Project CUH978.

The release of the reserved funding is needed to contract the services of an outreach education and marketing firm to provide public education, community engagement, program advertisement and outreach services for CleanPowerSF, the City's Community Choice Aggregation Program.

These funds were placed on reserve by the Budget and Finance Committee at meeting of December 8, 2010.

The \$1,443,500 will allow the SFPUC to begin the implementation of a comprehensive, highly targeted, pre-enrollment Customer Notification and Education Plan for CleanPowerSF.

Regards,

*Harlan L. Kelly, Jr.*  
Harlan L. Kelly, Jr.  
General Manager

Edwin M. Lee  
Mayor

Art Torres  
President

Vince Courtney  
Vice President

Ann Moller Caen  
Commissioner

Francesca Vietor  
Commissioner

Anson Moran  
Commissioner

Harlan L. Kelly, Jr.  
General Manager





## Request for City Services - Clerk of the Board

Enter Personal Details > Enter Service Request Details > Review & Submit > Attach Photo(s) / File(s) > **Print & Track**

### Successfully Submitted

Thank you for your submission. You will receive an email confirmation with a link to follow the progress of your submission.

If you have any additional requests or questions, you can call us 7 days a week, 24 hours a day at 311 (for calls outside of San Francisco please dial 415-701-2311).

Your Tracking Number is: 1772761  
Dec 10 2012 1:46PM.

Please print a copy for your records. You may close your browser when done.

#### Location Information:

Location Description: Unleashed dog park

#### Request Details:

Category: Complaint  
Department: Board of Supervisors (BOS)  
Sub-Division: Clerk of the Board

#### Additional Information:

##### Additional Request Details:

To Whom It May Concern: I write to you as an owner of 2 wonderful dogs that are a part of the American Staffordshire Terrier breed as well and ask that you please look deep into your heart and see how loving Charlie truly is. Charlie is a wonderful family dog that is loving, energetic, and loves his family more than anything. Charlie is not an aggressive dog and was simply scared when this huge animal (a horse) 5 times the size of Charlie entered an area for unleashed animals. I am not sure if you have any animals of your own, but animals like Charlie are not just animals, they are family members. They are our children and we treat them as such. I plead to you that you please return Charlie to his family. I do not know if you have children or not, but if you, go back to the day that you had to drop your little one off at a day care center for the very first time. They probably cried and latched onto you with all their might trying to stop you from leaving. Charlie is the same way being locked up in an 8x4 kennel. It may sound ridiculous but dogs have feelings and when dogs grow up in a family environment they feel sadness and get scared when being left like that. They do not understand why they can't be with their families. Please look beyond the looks of Charlie and please look past what society wants you to believe about this breed, but they are loving animals. Like I said I have 2 and both are rescue dogs. They honestly think that they are lap dogs and don't realize that they weigh 60 pounds. They love to be outside with us when we are working in the garage or out front, love to go for car rides so they can feel the wind on their faces and love lying on our huge bean bag with our son. I have several friends with small children and they absolutely love when all the neighborhood kids come over because that means there are more kids to play with. Charlie was simply scared and I do not blame him. I would be terrified if I was that small and saw this huge animal (a horse none the less) coming into an area where I was. I am writing this letter pleading for you to please please return Charlie home with his family who loves him and misses him dearly and look past all the negativity that the media and society want you to see. They only think the negative thoughts of this breed because they simply are uneducated about the breed. I also ask for you to help find relief in Charlie's case: #CPF12512445, Animal Care and Control Case Number #A319601 and help us get the true facts of the case out to the media. "Important FACTS in Charlie's case: 1. Charlie was in a designated off-leash area for dogs. 2. Park Police Officer Eric Evans rode his horse into the off-leash area. 3. The owner, David Gizzarelli, was arrested and charged with 4 Federal Counts of Assault on a Police Officer, a Police Horse, and Causing a Dangerous Situation. 4. Charlie was neutered, registered, micro-chipped, and given his final shots two months earlier in June, 2012. 5. The witness, police officer, interviewer, and hearing judge John Denny converses with David Gizzarelli and releases Charlie to David the next day, pending the hearing scheduled for August 23rd, 2012. 6. At the hearing, the Park Police Officer Eric Evans demands Charlie be put down. John Denny and ACC order Charlie "back" into custody and make a decision ... the very next morning. 7. ACC issues a Statement of Decision stating that Charlie be "humanely destroyed" condemning Charlie to death. 8. Law attorneys file a Writ and help David fight the decision and Help Save Charlie. 9. David attempts to visit Charlie and several occasions. The ACC staff, ACC Captain Vickie Guldbach, and City Attorney Margaret Baumgartner say that Charlie has been aggressive with uniformed officers and that he is not allowed any visitors and is not allowed any walks. Charlie is transferred to a solitary 8x4 cell. Volunteers report that Charlie is not aggressive with everyone. 10. The ABA Journal (America Bar Association) issues a distorted report of Charlie not being neutered and being off leash. Failing to mention that Charlie was in an off-leash area for dogs. Many media reports are similar. 11. Charlie's attorney and protector, John F. Mounier, files motions in California Superior Court. Judge grants hearing and all motions except motion to allow visiting rights, as City Attorney Deputy Margaret Baumgartner fought to deny this motion. 12. On 12/05/12, California Superior Court Judge issues a tentative ruling condemning Charlie to death. On 12/06/12, Charlie's owner, David Gizzarelli, Attorney John F. Mounier, a group of animal supporters, and the City Attorney's Office attend court. Honorable Judge James Robertson II considers case and grants Charlie a 7 day temporary stay. Judge reports that he will make a decision by Wednesday, 12/12/12. Margaret Baumgartner the deputy City Attorney fiercely tries to deny the temporary stay and asks for Charlie to be destroyed immediately. Judge Robertson II" ... I refuse to put that pressure on myself" grants the temporary stay while he decides." Here is a document released by the sf city attorney. It was included in the NBC video report. This should not be used as a statement of fact. It is simply the hearing decision as prepared by the San Francisco Animal Care and Control. This document also includes a

response from Charlie's legal representatives: <http://sfcityattorney.org/modules/showdocument.aspx?documentid=1080> Thank you, Vanessa Palmer owner of 2 pit bulls Queen Creek, AZ

**Customer Contact Information:**

First Name: Vanessa  
 Last Name: Palmer  
 Primary Phone: 480-299-7113  
 Alternate Phone:  
 Address Number:  
 Street Name:  
 City, State: Queen Creek, AZ  
 ZIP Code: 85140  
 Email: vanessashibley@yahoo.com

Customer requested to be contacted by the department   
 servicing their request:

BACK OFFICE USE ONLY \*\*\*\*\*

Source Agency Request Number:

Responsible Agency Request Number:

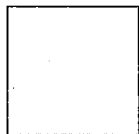
Service Request Work Status:

Work Status Updated:

**Print**

Reply Reply All Forward

# Information Request Form



board.of.supervisors@sfgov.org

Saturday, December 08, 2012 1:03 PM

To: Board of Supervisors

To:board.of.supervisors@sfgov.org

Email:board.of.supervisors@sfgov.org

FIRST\_NAME:Daniel

LAST\_NAME:Henriques

ADDRESS:homeless

CITY:Hayward

STATE:CA

ZIP:94541

PHONE\_NUMBER:none

FAX:?

CONTACT\_EMAIL:Proposition 8 in reality is ungodly, because it is disrespectful to some or to the targeted people of our family members, also such proposition 8 inspires and motivates some people to indanger some of or all of the people that are not allowed to by titled as married upon targeted members of our family. Proposition 8 is anti-family safety. Ouch, Proposition 8 is painful to me and all other respectful family members!

DATE\_OF\_RECORD:12-08-12

FILENUMBER:

RESOLUTIONNUMBER:

ORDINANCENUMBER:

MOTIONNUMBER:

SEE\_FILE\_ON:

PICK\_UP\_INFORMATION ON:

ADDITIONAL\_INFORMATION\_DETAIL:



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**From:** Karen Kidwell [kgkidwell@yahoo.com]  
**Sent:** Friday, December 07, 2012 10:35 PM  
**To:** Kim, Jane  
**Cc:** Farrell, Mark; Board of Supervisors  
**Subject:** Support for MacNiven Family Degaussing Station Concession  
**Attachments:** MacNiven Support.pdf

Dear Supervisor Kim,

As expressed in the attached letter, written last September, I strongly support the MacNiven family in their effort to renovate the Marina Degaussing Station and open a restaurant appropriate for the setting.

Best,

Karen Kidwell  
415-775-16156

**Karen Kidwell  
965 Baker Street  
San Francisco, CA 94115**

September 7, 2011

Lev Kushner  
Assistant Director, Strategic Partnerships  
Recreation & Park Department  
501 Stanyan  
San Francisco, CA 94117

Dear Lev,

This letter is to express my personal support for the MacNiven family's proposal to the Recreation & Park Department for a restaurant at the Marina Degaussing Station. From what I have observed, they have made community involvement and giving back a core part of their business strategy, and they are ethical and honest. The food at their restaurants is good too!

I have had the pleasure of knowing Margaret MacNiven for over ten years, and served with her on the board of directors of Committee for Green Foothills in Palo Alto. She gives generously of her time and energy to advocate for wise land use and to protect open space for use as park land and for sustainable agriculture. When I joined the Bay Area Ridge Trail Council in 2004, I was pleasantly surprised to find out that the MacNiven Family were supporters of the Ridge Trail, and they donated Buck's Restaurant gift certificates for our annual auction. Then when I joined the San Francisco Parks Trust I found that the MacNivens were also members of SFPT.

The MacNiven family has long-time roots in San Francisco and the Peninsula, and they care about the communities in which they work and live. They know how to run profitable businesses that appeal to San Francisco residents, including our interest in sustainable and local foods. They are exactly the kind of entrepreneurs who can successfully create a special restaurant for a unique location.

Once again, this is my personal opinion, offered independently of my work at San Francisco Parks Trust

Sincerely,

Karen Kidwell

File 121003

**From:** Board of Supervisors  
**To:** BOS-Supervisors  
**Subject:** Spaces for our Veterans - Street Artists Program.

---

**From:** Francisco Da Costa [<mailto:fdc1947@gmail.com>]  
**Sent:** Monday, December 10, 2012 9:16 PM  
**To:** Lazar, Howard; Lee, Edwin (Mayor)  
**Cc:** Kawa, Steve; Falvey, Christine; Dan Bernal; Kim, Jane; Dorsey, Matt; Cityattorney; Nuru, Mohammed; Sparks, Theresa; Angus McCarthy; Garcia, Barbara; Chiu, David; Campos, David; Mar, Eric (BOS); Board of Supervisors; Kelly, Naomi; Elsbernd, Sean; Chu, Carmen; Suhr, Greg; Bevan.Dufty  
**Subject:** Spaces for our Veterans - Street Artists Program.

**Mr. Howard Lazar:**

**Today, December 10, 2012 before the Land Use Committee - I requested you to help our Veterans - who are part of the program where they make and sell their art work to the public at large.**

**In this case the area you deem to choose near the Westfield Center; in and around 5th and Market by the Cable Car turn-a-round - in other places you deem fit for the artists to sell their wares which they create.**

**Two Veterans who have served our Nation - and were honorably discharged - create and make their own art - and sell it to the public at large - have been discriminated against - in the past.**

**I worked for Sixth U.S. Army and Presidio of San Francisco and was Sixth Army's last congressional liaison - before Sixth U.S. Army was deactivated. I know a lot about the Veterans and have been instrumental in helping them - we helped create the Swords to the Plowshares at the Presidio - before others centers were established at Treasure Island and all over the City and County of San Francisco - today.**

**When I first heard the complaints - I requested the two Veterans to go through the process - and they did - and were given the run a round. This is totally uncalled for - and as and when this matter is adjudicated fairly - you Mr. Howard Lazar will find out who is right and who is wrong.**

**I tried to be as civil as I could today - but, you still seem to think that you and your organization has done nothing wrong - as part of your explanation after I spoke. Trying to name all the criteria that these two Veterans meet - and beyond in large measure.**

**Once again my request is simple - these two Veterans; humbly request two spaces to sell their wares without any hurdles; that the others who sell their wares do not encounter. Since you are in charge - I will send you the information and request you to make a time and place to meet.**

**I am a man of my word - and I can handle this situation - in other ways.  
I am copying this letter to the Mayor of San Francisco - Ed Lee and to  
some of his close circle of advisers and others that care for our Veterans.**

**Bottom line - if and when our Veterans return and want to make themselves  
useful - by contributing to Society - the least we can do is accommodate them.  
I believe strongly in following the laws - and we can go through the process  
you so strongly articulate - all of which I guarantee you; these two Veterans satisfy.**

**My cell number is: 415.816.2307. You have my business card.**

**Francisco Da Costa**



**Partner**

**Organizations:**

ACRJ  
 AMSA  
 CPHA-N  
 Catholics for Choice  
 Center for  
 Reproductive Rights  
 CLPP  
 EMILY's List  
 EngenderHealth  
 EQUAL Health  
 Network  
 Feminist Majority  
 Foundation  
 IGNITE  
 Ipas  
 ISIS  
 Joint Action  
 Committee  
 Latina Sexual and  
 Reproductive  
 Justice Coalition  
 LSRJ  
 Medical Students for  
 Choice  
 NARAL Pro-Choice  
 New York  
 NAPAWF  
 National Institute for  
 Reproductive  
 Health  
 NLIRH  
 NOW  
 NWHN  
 OWL-SF  
 Our Bodies,  
 Ourselves  
 Pathfinder  
 International  
 People For the  
 American Way  
 PRCH  
 PPAC  
 PPM  
 PPSP  
 RCRC  
 RHTP  
 RH Realitycheck  
 Scarleteen  
 SisterSong  
 Trust Women  
 Foundation  
 Women Donors  
 Network  
 Women's Media  
 Center  
 Women's Voice  
 Women's Vote

<http://oursilverribbon.org>

BOS-11  
cpage

**Thanks to SF Supervisors Campos and Cohen: Celebration of Women & Roe v Wade, Jan. 26, 2013**

I thank San Francisco Supervisors David Campos and Malia Cohen for introducing a Resolution commemorating the 40th anniversary of Roe v. Wade and commending the work of pro-choice advocates and service providers in San Francisco, and urge the SF Board of Supervisors to vote on Dec. 11 in support of the Resolution, which concludes:

The Celebration of Women, Life and Liberty, scheduled for January 26, 2013, at 10 a.m. at Justin Herman Plaza, in San Francisco, organized by a broad coalition of groups assembled by the Trust Women/Silver Ribbon Campaign, will begin the year with a mobilization and will include a display of related banners on Market Street,

NOW THEREFORE BE IT RESOLVED, That the San Francisco Board of Supervisors affirms the importance of reproductive health, rights and justice, and women's access to safe, comprehensive and affordable reproductive health care including the right to safe and accessible abortion services; and

BE IT FURTHER RESOLVED, That the San Francisco Board of Supervisors supports the work of pro-choice and reproductive justice advocates in commemorating and honoring the 40th anniversary of Roe v. Wade, this January of 2013.

**Organizations Sponsoring the Celebration of Women, Life and Liberty**

- BACORR
- California Family Health Council
- California Nurses Association
- California Women's Agenda
- CREDO Action
- Democratic Women in Action
- Democratic Women's Forum
- Friends of the San Francisco Dept. on the Status of Women
- Men Who Trust Women
- National Council of Jewish Women - San Francisco
- Raoul Wallenberg Jewish Democratic Club
- SF Commission on the Status of Women
- SF Dept. of Public Health
- SF Dept. on the Status of Women
- SF NOW
- SF OWL
- Trust Women/Silver Ribbon Campaign
- Women's Intercultural Network
- Women's Building of San Francisco

RECEIVED  
 BOARD OF SUPERVISORS  
 SAN FRANCISCO  
 2012 DEC 12 AM 8:22

Thanks to San Francisco Board of Supervisors for Resolution Supporting Roe v Wade

First name	Last name	Street	City	State	Postal code	Personal messages	Email
Ann	Walker	462 Centre Court	Alameda	CA	94502		annpeacewalker@gmail.com
Lara	Wright, MD	1165 Santa Fe Ave	Albany	CA	94706		lara.wright@sonic.net
Jane	Kaplan	3050 Shattuck Avenue	Berkeley	CA	94705		jkaplan@att.net
Julie	Keitges	1242B Milvia St.	Berkeley	CA	94709		juliewolves@comcast.net
Bobbie	Steinhart	30 Avis Road	Berkeley	CA	94707		bobbiesteinhart@sbcglobal.net
Yvonne	Steffen	1838 Arlington Blvd.	El Cerrito	CA	94530		YvonneSteff@aol.com
Claire	Sapiro	1355 Lawndale Road	Kenwood	CA	95452-9092	THANK YOU for being a leader and standing up for women!! miss being an SF resident!	csapiro@sonic.net
Sophia	Yen MD MPH	411 Los Ninos Way	Los Altos	CA	94022		syen@alum.mit.edu
Karen	Lines	934 Florence Lane	Menlo Park	CA	94025		Krlines@me.com
Karen	Lines	934 Florence Lane	Menlo Park	CA	94025		Krlines@me.com
Karen	Lines	934 Florence Lane	menlo park	CA	94025		krlines@me.com
Edith	Piness	2 Strawberry Landing	Mill Valley	CA	94941		egbear@aol.com
Pooja	Prasad	15295 Sycamore Dr.	Morgan Hill	CA	95037	I thank you so much for taking this stand in support of women's health care rights, and for bringing this issue to the spot-light is a beautiful and positive way.	poojaprasad91@gmail.com
Michele	Amirkhas	100 Rishell Drive	Oakland	CA	94619	Michele Amirkhas, Third generation San Franciscan!	michelesalsas@mac.com
Nancy	Martin	777 San Antonio Rd Apt 132	Palo Alto	CA	94303		ncmartin@comcast.net
June	Manners	1091 N. Wilson Ave.	Pasadena	CA	91104		june.manners@att.net
Mark	Evans	3955 Bigelow Blvd.	Pittsburgh	PA	15213		mark.evans83@gmail.com
Pat	Bakalian	7573 Greenhaven Drive #400	Sacramento	CA	95831		bakalian.pat@gmail.com
Rev. Darcy	Baxter	74 Waller Street	San Francisco	CA	94102		darcybaxter@yahoo.com
Robin	Brasso	1833 11th Avenue	San Francisco	CA	94122	Thank you for supporting Women's Health and Roe v Wade	robinbrasso@yahoo.com
Helynna	Brooke	1380 Howard Street #226	San Francisco	CA	94103	Thank you Mallia and David for carrying this resolution. Thank you for coming through for all women, especially those in San Francisco, at this time of a War on Women.	hbrooke@mhsf.org
Susan	Englander	3456 17th St.	San Francisco	CA	94110		senglander52@gmail.com
amy	everitt	111 pine street	san francisco	CA	94111	I snuager to tnink where we σ be wtnout regairzed aboruton. One of the lucky ones who never needed one, I know many who did and know of more than a few who died in botched attempts outside of clinics. Thank you for marking this important date.	amyeveritt@hotmail.com
L.A.	Hyder	400 Beale St	San Francisco	CA	94105		l.a.hyder@att.net
Sahru	Keiser	55 new Montgomery St	San Francisco	CA	94105		skeiser@bcaction.org
Sahru	Keiser	55 new Montgomery St	San Francisco	CA	94105		heneckelly@aol.com
HENE	KELLY	7040 Geary Blvd.	San Francisco	CA	94121	Thank you!	
Margaretta	Kildebeck	405 Davis Ct	San Francisco	CA	94111	Thank you, Supervisors Campos and Cohen for speaking out to protect the health and rights of women.	Kildebeck.mardi@gmail.com
Wendy	Mai	382 Naples St	San Francisco	CA	94112		wendymfong@gmail.com
Wendy	Mai	382 Naples St	San Francisco	CA	94112		wendymfong@gmail.com
Nan	McGuire	994 Union St.	San Francisco	CA	94133		nanmc@jimstevens.com
Nan	McGuire	994 Union St.	San Francisco	CA	94133		nanmc@jimstevens.com
Rebecca	Michelson	4330 Anza Street	San Francisco	CA	94121		rebecca.michelson@gmail.com
Rebecca	Michelson	4330 Anza Street	San Francisco	CA	94121		rebecca.michelson@gmail.com

holly	millar	1740 broadway	san francisco	CA	94109	hmillar@gmail.com
Siobhan	Mulvey	1127 Guerrero Street	San Francisco	CA	94110	siobhan.mulvey@gmail.com
Kathie	Piccagli	100 Dorado Terrace	San Francisco	CA	94112	kpiccagli@gmail.com
Craig	Scott	1010 Fell St. #3	San Francisco	CA	94117	craigscottsf@yahoo.com
Lesley	Stansfield	681, 27th street	san francisco	CA	94131	lesleyastansfield@hotmail.com
Elisette	Weiss	611 Fell Street	San Francisco	CA	94102	elisette.weiss@gmail.com
MARY	WINEGARDEN	1708 Sanchez St	San Francisco	CA	94131	mwinegar@sfsu.edu
Alice	Wolfson	101 Lombard Street, apt. 602w	san francisco	CA	94111	alicewolfson@comcast.net

Thank you for supporting a woman's right to choose on this important and historic anniversary. In 1961, I became pregnant the first time I had sex. I became a reluctant parent at the age of 21. I think all children should be wanted. They should be born to parents who will love them without reservation. In 1961 I had no choice. I wish that

wynnegilbert@jgc.org  
 saveroe@hotmail.com  
 sofasn@gmail.com

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**From:** Chapin-Rienzo, Shanda on behalf of Reports, Controller  
**Sent:** Wednesday, December 12, 2012 9:48 AM  
**To:** Calvillo, Angela; Nevin, Peggy; BOS-Supervisors; BOS-Legislative Aides; Kawa, Steve; Howard, Kate; Falvey, Christine; Elliott, Jason; Campbell, Severin; Newman, Debra; sfdocs@sfpl.info; gmetcalf@spur.org; CON-Media Contact; ggiubbini@sftc.org; CON-EVERYONE; CON-CCSF Dept Heads; CON-Finance Officers; Martin, John (SFO); Caramatti, Jean; Birrer, Joe; geoff.neumayr@fylsfo.com; Tang, Wallace; Fermin, Leo; McCoy, Tryg  
**Subject:** Issued: The Airport Did Not Always Follow the Close-out Procedures in Its Cooling Towers Rehabilitation Contract and Must Improve Its Documentation of Compliance

Good Morning Mr. Martin:

The Office of the Controller's City Services Auditor Division (CSA) today issued a memorandum, *The Airport Did Not Always Follow the Close-out Procedures in Its Cooling Towers Rehabilitation Contract and Must Improve Its Documentation of Compliance*. The assessment found that while the Airport generally complied with all close-out procedures, it did not retain all the documentation needed to verify its compliance. Furthermore, the Airport did not always strictly adhere to the close-out provisions stated in the contract.

To view the full memorandum, please visit our website at: <http://co.sfgov.org/webreports/details.aspx?id=1515>

This is a send-only email address.


For questions about the memorandum, please contact Director of City Audits Tonia Lediju at [Tonia.Lediju@sfgov.org](mailto:Tonia.Lediju@sfgov.org) or 415-554-5393, or the CSA Audits Unit at 415-554-7469.





## **MEMORANDUM**

**TO:** John L. Martin, Airport Director  
San Francisco International Airport

**FROM:** Tonia Lediju, Director of City Audits  
City Services Auditor Division 

**DATE:** December 12, 2012

**SUBJECT:** The Airport Did Not Always Follow the Close-out Procedures in Its Cooling Towers Rehabilitation Contract and Must Improve Its Documentation of Compliance

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### **EXECUTIVE SUMMARY**

The Airport Commission (Airport) of the City and County of San Francisco (City) generally complied with all applicable close-out procedures in its contract with Proven Management, Inc., the general contractor for the project to rehabilitate cooling towers at San Francisco International Airport. However, the Airport did not retain all the documentation needed to verify compliance in a manner that was readily retrievable, so it could not provide these documents to the assessment team. Also, the Airport either did not always follow the contract's close-out provisions or only partially complied with the provisions. The Airport concurs with the two findings and agrees to implement all five recommendations.

### **BACKGROUND, OBJECTIVES & METHODOLOGY**

#### **Background**

In accordance with the Office of the Controller's City Services Auditor Division (CSA) work plan for fiscal year 2012-13, CSA assessed the Airport's compliance with contract close-out procedures for a project to rehabilitate cooling towers at San Francisco International Airport. This assessment is part of CSA's ongoing program of assessing compliance with contract close-out procedures in various city departments each quarter.

The Airport's Design & Construction Division, Mechanical Engineering unit, is the subject of this assessment. The Mechanical Engineering unit's mission is to design and construct heating, ventilation and air conditioning, water, sewer, and fire protection systems. Mechanical

Engineering staff also provides design support for in-house and maintenance system repairs and project upgrades.

The general contractor selected for the Cooling Towers Rehabilitation Project (Contract No. 8474) was Proven Management, Inc. The project began on June 2, 2008, and was originally intended to be completed by March 28, 2009. However, due to operational issues at the Airport's Central Plant, the cooling towers were first shut down on October 17, 2008. Also, due to the discovery of severe corrosion on lines that connect the North and South Towers, the Airport approved a contract modification that allowed the contractor to install a bypass system from the Central Plant to the South Tower.

All work on the project, including performance testing of the new bypass system and punch list items, was completed on May 15, 2010, and all required contract documentation was submitted on August 20, 2010. The original contract bid amount was \$1,159,423, but net modifications of \$945,703 brought the final contract amount to \$2,105,126. The Airport approved release of the final retention payment on September 21, 2010, and final payment on October 8, 2010.

Contract close-out formally ends the construction phase of a capital project and ensures the fulfillment of all contractual and legal obligations before final payment is released to the contractor. Ensuring compliance with all close-out procedures provides assurance that the contractor has used City resources appropriately and that the contractor has completed the work in accordance with contract terms. Prompt completion of close-out procedures limits the administrative costs that continue to accrue during the close-out period.

## **Objectives**

The objectives of the assessment were to determine whether:

- The Airport adequately oversaw compliance with the close-out procedures in the contract for the Cooling Towers Rehabilitation Project.
- The general contractor complied with the contract's close-out procedures.

## **Methodology**

To achieve the objectives, CSA:

- Reviewed contract close-out procedures in Airport Contract No. 8474, Section 01700.
- Developed a checklist of the contract close-out procedures in Section 01700.
- Obtained the contract manager's statement on whether or not each applicable close-out procedure was performed.
- Reviewed supporting documentation for evidence of compliance with the contract's close-out procedures.
- Determined whether each applicable requirement was met.
- Reviewed relevant best practices documents.

CSA selected the Cooling Towers Rehabilitation Project from among a random sample of Airport projects costing more than \$2 million each in calendar years 2010 and 2011. This threshold was selected based on the fact that close-out assessments performed during the fourth quarter of fiscal year 2011-12 were for small projects (less than \$1 million), and that the goal of the CSA work plan for close-out assessments in fiscal year 2012-13 is to review progressively more complex projects of greater value.

## RESULTS

### **Finding 1 – The Airport could not provide adequate supporting documentation to verify its compliance with some of the contract’s close-out procedures.**

The Airport was unable to provide adequate supporting documentation to verify that the:

- a. Airport conducted a substantial completion inspection.
- b. Contractor completed all punch list items resulting from the substantial completion inspection.
- c. Contractor inspected the work for compliance with contract documents.
- d. Contractor provided products, spare parts, maintenance, and extra materials in quantities specified in the contract’s specification sections.

According to the Airport’s contract manager, some of the documentation needed to verify the Airport’s compliance with contract close-out procedures was not readily accessible. This documentation consisted of e-mails and “speedy memos” between the Airport and the contractor that were not readily accessible because the contract was completed more than two years ago. Furthermore, the Airport had not prepared a checklist of contract close-out procedures along with related supporting documentation to formally document the completion of the contract close-out procedures. The contract manager stated that it now would be time-consuming and too costly to retrieve those supporting documents from his records.

The lack of tangible evidence of the Airport’s compliance with contract close-out procedures could be a problem if the contractor and City disagree on whether a particular procedure was completed. Furthermore, without this evidence, the assessment cannot confirm that certain close-out procedure steps were performed.

### **Recommendations**

The Airport should:

1. Develop and implement a checklist of required contract close-out procedures and documentation.

2. Compile supporting documentation to verify the Airport's compliance with all contract close-out procedures and retain the documentation so it is readily retrievable.

**Finding 2 – The Airport did not strictly adhere to the contract for some close-out procedures.**

In three instances the Airport either did not perform close-out procedures in compliance with contract Section 01700, or only partially complied with its provisions, as follows:

- a. The Airport did not issue a Certificate of Substantial Completion to the contractor.

According to the contract manager, the Airport addresses substantial completion by conducting a "walk through," during which the Airport assesses the status of the work and prepares a punch list of work that needs to be redone or completed. However, the Airport did not issue a Certificate of Substantial Completion to the contractor.

- b. The Airport did not require the contractor to certify in writing that the work was complete and ready for final inspection.

According to the contract manager, the Airport, not the contractor, determined that the work was complete and ready for final inspection because contractors, in an effort to prevent liquidated damages, tend to prematurely deem the work substantially complete. However, contract Section 01700-1.04A3 states, "When contractor considers work is complete, submit written certification that the requirements for final acceptance . . . are met . . . work is complete and ready for final inspection."

- c. The Airport did not require the contractor's warranties to be notarized.

The contract manager stated that notarized copies were unnecessary because the contractor signed the warranties in the presence of several Airport employees as witnesses, including engineers and the contract manager. However, contract Section 01700-1.09A states that the contractor should "provide duplicate, notarized copies" of the warranties. Failure to require that the warranties be notarized might render them nonbinding on the contractor and unenforceable.

The Airport indicates that it is revising its contract close-out provisions. According to the Airport's Bureau of Design and Construction, when this work is complete, Section 01700 of future contracts will contain close-out procedures that the Airport considers to be more reliable and appropriate than those in current contracts. However, the language in the contract for the Cooling Towers Rehabilitation Project governed the close-out procedures that are the subject of this assessment, and that language was not followed. Failure to adhere to contract terms could result in disputes with contractors.

## Recommendations

The Airport should:

3. Issue a Certificate of Substantial Completion to contractors to formally establish the date(s) of substantial completion for its contracts.
4. Require contractors to certify in writing that work is completed and ready for substantial completion inspection and final inspection.
5. Ensure that it strictly adheres to the terms of the close-out procedures in its current contracts, until new close-out procedures are implemented.

The Airport's response is attached. CSA will work with the Airport to follow up on the status of the recommendations made in this memorandum. CSA extends its appreciation to you and your staff who assisted with this project. If you have any questions or concerns, please contact me at (415) 554-5393 or [tonia.lediju@sfgov.org](mailto:tonia.lediju@sfgov.org).

cc: Airport  
Joe Birrer  
Geoff Neumayer  
Carl Farsai  
Leo Fermin  
Tryg McCoy  
Wallace Tang

Controller  
Ben Rosenfield  
Monique Zmuda  
Mark de la Rosa  
Edvida Moore

## ATTACHMENT: DEPARTMENT RESPONSE

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San Francisco International Airport

December 5, 2012

Ms. Tonia Lediju  
Director of Audits  
Office of the Controller  
City Services Auditor Division  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place, Room 477  
San Francisco, CA 94102

**Subject:** Assessment of the San Francisco International Airport's Compliance with Close-Out Procedures for the Rehabilitation of Airport Cooling Towers Contract (#8474)

Dear Ms. Lediju:

Attached is the completed Audit Recommendation and Response Form regarding the Assessment of the San Francisco International Airport's Compliance With Close-Out Procedures for the Rehabilitation of Airport Cooling Towers Contract (#8474).

If you have any questions, please feel free to call me at (650) 821-7751.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joseph Birrer", written over a faint, illegible typed name.

Joseph Birrer  
Manager of Engineering  
Design and Construction

Attachment:

cc: Tryg McCoy  
Ivar Satero  
Wallace Tang  
Edvida Moore -- CSA

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE  
MAYOR

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AIRPORT DIRECTOR

Post Office Box 8097 San Francisco, California 94128 Tel 650.821.5000 Fax 650.821.5005 www.flysfo.com

## RECOMMENDATIONS AND RESPONSES

Recommendation	Responsible Party	Response
<p>The San Francisco International Airport should:</p> <ol style="list-style-type: none"> <li>Develop and implement a checklist of required contract close-out procedures and documentation.</li> </ol>	<p>Airport Commission</p>	<p><b>Partially concur.</b> As a point of clarification, the Airport has a checklist for final close-out of a contract. What we understand this comment is in reference to is a checklist that identifies specific procedures and contractor deliverables called out in specification section 01700. The Airport will continue to use its Contract Close-out Checklist for final close-out of contracts, but will update our procedures and develop a form to address the specific close-out items required in section 01700. A draft of the procedures and form should be completed by March 31, 2013, with a final version scheduled by May 31, 2013.</p>
<ol style="list-style-type: none"> <li>Compile supporting documentation to verify the Airport's compliance with all contract close-out procedures and retain the documentation so it is readily retrievable.</li> </ol>	<p>Airport Commission</p>	<p><b>Concur.</b> The updated procedures and new form to be developed as referenced in the response to recommendation #1 will verify compliance with the close-out procedures, and the contract/construction manager and the contract record file will retain the documentation.</p>
<ol style="list-style-type: none"> <li>Issue a Certificate of Substantial Completion to contractors to formally establish the date(s) of substantial completion for its contracts.</li> </ol>	<p>Airport Commission</p>	<p><b>Concur.</b> Notification of substantial completion for phased work completed in total and/or for overall completed contract work will be addressed in the updated procedures (see item #1). The actual format of the notification to the contractor may be in the form of a certificate, a memo, or a letter, that will be finalized when the</p>

Recommendation	Responsible Party	Response
<p>4. Require contractors to certify in writing that work is completed and ready for substantial completion inspection and final inspection.</p>	<p>Airport Commission</p>	<p>procedures are updated and finalized.</p> <p><b>Concur.</b>                      As part of the updated procedures and form referenced in the response to recommendation #1, requiring the contractor to certify in writing that their work is substantially complete and ready for inspection will be one of the tasks to be documented prior to issuing a Certificate of Substantial Completion as noted in recommendation #3.</p>
<p>5. Ensure that it strictly adheres to the terms of the close-out procedures in its current contracts, until new close-out procedures are implemented</p>	<p>Airport Commission</p>	<p><b>Partially concur.</b>                      It should be understood that specification section 01700 is part of the City and County of San Francisco's boilerplate specifications that were written to cover all different types of contracts, and that not every requirement of the section is applicable to every contract. The contract/construction manager must use their experience, knowledge of the contract work, and discretion in implementing the applicable requirements of the specifications.</p> <p>That being said, the Airport has been implementing the applicable requirements of the close-out procedures, however, going forward we will formalize that by documenting those requirements more thoroughly.</p>





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916-554-5864 phone  
916-442-8585 fax

lung.org/california

**State of Tobacco Control Report to be Released January 16, 2013**  
Report will include tobacco control grades for all 58 counties  
in California

Dear Supervisors:

I am pleased to announce that the American Lung Association will release its 11<sup>th</sup> annual State of Tobacco Control Report on January 16, 2013. This report assigns grades to the federal government and states based on their tobacco control laws and regulations in effect as of January 2, 2012. The state grades cover policies for Smokefree Air, Cigarette Tax, Tobacco Control Spending and Smoking Cessation.

In coordination with the national report, the American Lung Association in California will release tobacco control report cards for all 58 counties in California. The grades will be assigned for the following policy categories: Smokefree Outdoor Air; Smokefree Housing; and Reducing Sales of Tobacco Products. These three grades are then averaged for one Overall Tobacco Control Grade.

California has long been a leader in the fight against tobacco, but the state's efforts have slipped in recent years. In addition to falling short in funding tobacco prevention programs, California has not increased its cigarette tax since 1999 and now has the 33<sup>rd</sup> lowest state tax at 87 cents per pack, compared to the state average of \$1.48 per pack. States such as Arizona, Oklahoma and Montana have higher tobacco taxes than we do. This while 34,400 California kids become regular smokers each year and tobacco claims 36,600 lives annually and costs our state \$18 billion dollars in health care costs and productivity losses.

To address these growing concerns, the American Lung Association in California continues to support efforts to raise the tobacco tax in California and restore prevention funding to the California Tobacco Control Program. It is also our hope that the local tobacco control grades will increase public knowledge about laws that help protect residents from tobacco's deadly toll, and encourage local leadership to take action where improvement is needed.

I encourage you to visit the American Lung Association in California website [www.lungusa.org/california](http://www.lungusa.org/california) on January 16 to view the state and local tobacco control report cards and learn how to take action in the fight against tobacco.

Sincerely,

Jane Warner  
President and Chief Executive Officer

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
DEC 13 PM 3:00

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**From:** Board of Supervisors  
**To:** BOS-Supervisors  
**Subject:** Charlie the Dog

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**From:** Julian Quattlebaum [mailto:jq@channellawgroup.com]  
**Sent:** Wednesday, December 12, 2012 11:27 AM  
**To:** Board of Supervisors  
**Subject:** Fwd: Charlie the Dog

----- Forwarded message -----

**From:** Julian Quattlebaum <jq@channellawgroup.com>  
**Date:** Wed, Dec 12, 2012 at 11:22 AM  
**Subject:** Charlie the Dog  
**To:** [acc@sfgov.org](mailto:acc@sfgov.org)  
**Cc:** [John@theanimalprotector.com](mailto:John@theanimalprotector.com)

Why isn't ACC taking steps against the horse? Charlie did not injure the officer on the horse. The horse threw the officer. I could talk about what a dangerous and uncontrollable animal this horse obviously is, but I am sure the reply would be something along the lines of the horse's reaction being a natural one to being attacked by a dog. What I don't understand is why that argument holds water, when the corresponding argument, that Charlie's attack on the horse was his natural reaction to being confronted by a monster orders of magnitude bigger than himself, is rejected out of hand. Why does the horse get a pass when it is just following its natural instincts but a dog doesn't.

It's not much of an argument to say that the dog is dangerous but the horse isn't. According to a knowledgeable source on the Internet (<http://www.riders4helmets.com/2011/02/equestrian-sport-statistics-facts-what-you-should-know/>), "78,279 people visited the emergency room in 2007 as a result of horse riding related injuries," "Over 100 deaths per year are estimated to result from equestrian related activities . . ." and "The rate of serious injury per hour is estimated to be approximately the same for horseback riders as of that for motorcyclists." In fact, according to the *American Journal of Surgery*, Horseback riding is more dangerous than motorcycle riding . . ." (Ball, Chad, et al., "Equestrian injuries: incidence, injury patterns, and risk factors for 10 years of major traumatic injuries," *The American Journal of Surgery* 193 (2007) 636 – 640, available at <http://www.horsemanshipsafety.com/mulloy.doc.pdf>.) That same study concluded:

Equestrian riding also is considered to have the highest mortality of all sports, with an annual death rate of 1 per 1 million population [7,8]. This reality is not surprising because a horse weighs up to 500 kg, moves at a speed of 65 km/h, elevates the rider 3 meters above the ground, and kicks with a force of nearly 1 ton. A horse also is more unpredictable than either a motorcycle or a racecar.

There simply is no defensible basis on which to justify the selection of the dog, rather than the rider or the horse as the responsible party or as the potential source of future injuries justifying destruction. The officer who rode his horse into an off-leash dog park should be disciplined for an incredibly negligent act, and if the motivation was truly to protect the public, horse riding would simply not be allowed within the city limits of San Francisco.

They have no place there. There are far more reliable methods of transportation, even in off-road areas. Check with the Army.

Your policies are not rational, and are based on emotional reactions that do not truly serve to promote the interests of the public.

--

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\*Julian K. Quattlebaum, III \*

\*Channel Law Group, LLP\*

\*207 East Broadway\*

\*Suite 201\*

\*Long Beach, CA 90802-8824\*\* map<[https://maps.google.com/maps?hl=en&q=33.769373,-118.190918&ie=UTF-](https://maps.google.com/maps?hl=en&q=33.769373,-118.190918&ie=UTF-8&hq=&hnear=0x80dd31390caa8c6b:0x49fdc1b33ac47112,%2B33%C2%B0+46'+9.64%22,+118%C2%B0+11'+27.18%22&gl=us&ei=tywkUL72KsSQiQKRxoGACg&ved=0CAcQ8gEwAA)

[8&hq=&hnear=0x80dd31390caa8c6b:0x49fdc1b33ac47112,%2B33%C2%B0+46'+9.64%22,+118%C2%B0+11'+27.18%22&gl=us&ei=tywkUL72KsSQiQKRxoGACg&ved=0CAcQ8gEwAA](https://maps.google.com/maps?hl=en&q=33.769373,-118.190918&ie=UTF-8&hq=&hnear=0x80dd31390caa8c6b:0x49fdc1b33ac47112,%2B33%C2%B0+46'+9.64%22,+118%C2%B0+11'+27.18%22&gl=us&ei=tywkUL72KsSQiQKRxoGACg&ved=0CAcQ8gEwAA)

[8&hq=&hnear=0x80dd31390caa8c6b:0x49fdc1b33ac47112,%2B33%C2%B0+46'+9.64%22,+118%C2%B0+11'+27.18%22&gl=us&ei=tywkUL72KsSQiQKRxoGACg&ved=0CAcQ8gEwAA](https://maps.google.com/maps?hl=en&q=33.769373,-118.190918&ie=UTF-8&hq=&hnear=0x80dd31390caa8c6b:0x49fdc1b33ac47112,%2B33%C2%B0+46'+9.64%22,+118%C2%B0+11'+27.18%22&gl=us&ei=tywkUL72KsSQiQKRxoGACg&ved=0CAcQ8gEwAA)>

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--  
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**From:** Chapin-Rienzo, Shanda on behalf of Reports, Controller  
**Sent:** Tuesday, December 18, 2012 9:14 AM  
**To:** Martin, John (SFO); Callahan, Micki; Tang, Wallace; Lawrence, Alexander; Fernandez, Hazelle; Fermin, Leo; McCoy, Tryg; Chan, Cecilia; Martinez, Denise; Fong, Christina; Ponder, Steve; Lyens, Jonathan; Gran, Martin; Gard, Susan; Calvillo, Angela; Nevin, Peggy; BOS-Legislative Aides; BOS-Supervisors; Kawa, Steve; Howard, Kate; Falvey, Christine; Elliott, Jason; Campbell, Severin; Newman, Debra; [sfdocs@sfpl.info](mailto:sfdocs@sfpl.info); [gmetcalf@spur.org](mailto:gmetcalf@spur.org); CON-Media Contact; [ggiubbini@sftc.org](mailto:ggiubbini@sftc.org); Rosenfield, Ben; CON-EVERYONE; CON-CCSF Dept Heads; CON-Finance Officers  
**Subject:** Notification of Audit Memorandum Issuance: The Airport's Payroll Operations, Including Its Administration of Premium Pay, Are Adequate, but Should Be Improved

The Office of the Controller's City Services Auditor Division (CSA) today issued a memorandum on its audit of the Airport's payroll operations, including its administration of premium pay. The audit found that the Airport accurately calculated overtime pay, shift pay, and multiple license requirement (multiple licenses) pay. However:

- An ineligible employee received at least \$526 of multiple licenses pay.
- The Airport does not clearly document the licenses and certifications required to receive multiple licenses pay.
- The Airport's written policies and procedures for payroll processing can be strengthened.
- The Airport's timesheets and overtime requests are signed but not dated.
- Some Airport timesheets do not contain the hours of the day that the employee worked to earn shift pay.

To view the full memorandum, please visit our website at: <http://co.sfgov.org/webreports/details.aspx?id=1522>

This is a send-only email address.

For questions about the memorandum, please contact Director of City Audits Tonia Lediju at [Tonia.Lediju@sfgov.org](mailto:Tonia.Lediju@sfgov.org) or 415-554-5393, or the CSA Audits Unit at 415-554-7469.



**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Monique Zmuda**  
**Deputy Controller**

**MEMORANDUM**

**TO:** John L. Martin, Airport Director  
San Francisco International Airport

Micki Callahan, Human Resources Director  
Department of Human Resources

**FROM:** Tonia Lediju, Director of City Audits  
City Services Auditor Division

**DATE:** December 18, 2012

**SUBJECT:** The Airport's Payroll Operations, Including Its Administration of Premium Pay, Are Adequate, but Should Be Improved

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**EXECUTIVE SUMMARY**

The payroll operations and administration of premium pay of the Airport Commission (Airport) are generally adequate, but need some improvement to reduce the risks associated with payroll processes. The audit found that the Airport accurately calculated overtime pay, shift pay, and multiple license requirement (multiple licenses) pay. However:

- An ineligible employee received at least \$526 of multiple licenses pay.
- The Airport does not clearly document the licenses and certifications required to receive multiple licenses pay.
- The Airport's written policies and procedures for payroll processing can be strengthened.
- The Airport's timesheets and overtime requests are signed but not dated.
- Some Airport timesheets do not contain the hours of the day that the employee worked when shift pay was earned.

The Airport agrees with the six findings and concurs or partially concurs with the 11 recommendations addressed to it. The Department of Human Resources (DHR) partially concurs with the one recommendation addressed to it. The responses of the Airport and DHR are attached.

## **BACKGROUND, OBJECTIVES & METHODOLOGY**

### **Background**

In accordance with its fiscal year 2012-13 work plan, the Office of the Controller's City Services Auditor Division (CSA) audited the Airport's payroll processes. This audit is part of an ongoing program of auditing the payroll operations of departments across the City and County of San Francisco (City).

### Operations

One of the world's busiest airports, San Francisco International Airport has four terminals, three of which are domestic and one international. San Francisco International Airport serves tens of millions of domestic and international passengers annually and was the first major U.S. airport to achieve 100 percent fully automated and integrated baggage screening.

### Payroll Processes

The Airport payroll staff administers the department's payroll. Until August 27, 2012, the Airport used the citywide payroll system, Time Entry and Scheduling System (TESS), to submit its employees' time information to the Office of the Controller's Payroll and Personnel Services Division (PPSD). TESS, maintained by PPSD, contains the configurations and formulas to calculate pay according to the employee pay rules in the City's labor agreements, or memorandums of understanding (MOUs), with employee organizations. TESS applies these rules to the employees' hours entered by payroll staff. Geac,<sup>1</sup> another PPSD system, used data from TESS and calculated the final pay based on the hours worked and applicable tax and payroll deductions.

On August 27, 2012, the Controller's eMerge Division implemented Oracle's PeopleSoft Human Capital Management 9.0 (PeopleSoft eMerge) as its new system, which provides improved human resources, benefits administration, and payroll services to the City's active and retired workforce. As a result, data from TESS now directly interfaces with PeopleSoft eMerge, instead of Geac.

Five Airport payroll and personnel clerks (payroll clerks) enter time in TESS based on paper timesheets submitted by division supervisors or timekeepers. Three senior clerk typists also enter time in TESS for airfield and custodial divisions. However, for these divisions, all special pay and overtime are entered by payroll clerks. For all Airport employees, payroll clerks enter special pays in TESS and rely on manually completed paper forms to obtain approvals for overtime and shift pay. The Airport's payroll supervisor reviews all of the entries before time entry data is submitted to PPSD.

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<sup>1</sup> The former name of a vendor, Geac Computer Corporation.



December 18, 2012

Each payroll clerk is responsible for a set of employee rosters, which group employees by division. Exhibit 1 shows the key payroll processes.

### EXHIBIT 1 Key Airport Payroll Processes

Process	Frequency
Submit timesheets to payroll staff	Weekly
Data entry of timesheets*	Weekly
Distribute checks	Biweekly

\* Note: During the audit period, payroll clerks entered time into TESS by the Thursday after the pay period end.

Source: Interviews with Airport staff.

### Payroll Expenditures

The Airport's fiscal year 2011-12 budget contains \$109 million in salaries and wages, including various premium pays. Exhibit 2 lists the department's payroll expenditures for the third quarter of fiscal year 2011-12 by pay type.

### EXHIBIT 2 Airport Payroll Expenditure Overview Quarter 3 of Fiscal Year 2011-12

Pay Type	Amount Expended
Regular pay	\$22,062,319
Overtime pay	347,052
Other pay (including premium pays)	5,633,325
<b>Total</b>	<b>\$28,042,696</b>

Source: Geac data for January 1 through March 31, 2012.

Employees may receive premium pay for specific and in-demand skills that have been approved in labor negotiations and documented. Examples of premium pay for which Airport employees are eligible include:

- Multiple licenses pay: two or more eligible certificates beyond those required by the job description.
- Longevity pay: ten or more years in a classification.
- Shift pay: hours worked during specific, generally late-night, shifts.

Exhibit 3 shows the amount of the department's overtime pay and premium pays for which more than \$100,000 was expended in the third quarter of fiscal year 2011-12.

**EXHIBIT 3     Airport Overtime Pay and Payroll Premium Pays Greater Than \$100,000  
Quarter 3 of Fiscal Year 2011-12**

Pay Type	Amount Expended
Shift pay	\$485,780
Overtime pay	347,052
Holiday pay	304,742
Multiple licenses pay	113,350
<b>Total</b>	<b>\$1,250,924</b>

Source: Geac data for January 1 through March 31, 2012.

The Airport has approximately 1,500 employees, represented by nine primary employee organizations as shown in Exhibit 4.

**EXHIBIT 4     Airport Memorandums of Understanding  
Effective During Fiscal Year 2011-12**

**Labor Organization**

1. Automotive Machinists, Local 1414
2. Consolidated Crafts\*
3. Electrical Workers, Local 6
4. International Federation of Professional & Technical Engineers, Local 21
5. Laborers International Union, Local 261
6. Municipal Executives' Association (MEA)
7. Service Employees International Union, Local 1021
8. Stationary Engineers, Local 39
9. United Association of Plumbers and Pipefitters, Local 38

\* Note: Includes Building Inspectors' Association and locals of 14 other unions.

Source: Airport.

Of the nine primary employee organizations, CSA audited the pay of the employees in the following six locals: 6, 38, 39, 261, 1021, and 1414.

**Objectives**

The primary objectives of this audit were to:

- Verify the accuracy of the amount the Airport paid in multiple licenses pay for the third quarter of fiscal year 2011-12.
- Assess whether the department complied with the applicable (Local 39) MOU in determining employees' eligibility for multiple licenses pay.

- Determine whether the department adequately and effectively controls the payroll process.
- Verify the accuracy and the proper approval of overtime pay and shift premium pay.

The audit period was January 1 through March 31, 2012.

### Methodology

CSA gathered information on payroll processes and premium pays and conducted fieldwork to accomplish the audit objectives. Specifically, CSA:

- Interviewed key Airport personnel about payroll procedures and internal controls.
- Used audit analytic software to analyze 222,796 pay records from Geac.<sup>2</sup>
- Evaluated and verified approval controls for a sample of 23 timesheets.
- Tested whether occurrences of shift, overtime, and multiple licenses pay were paid accurately and to eligible employees.
- Observed payroll clerks during the time entry and check distribution processes.

CSA then documented the results of the fieldwork.

This performance audit was conducted in accordance with generally accepted government auditing standards. These standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. CSA believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

## RESULTS

### **Finding 1 – An ineligible employee received at least \$526 of multiple licenses pay.**

In the third quarter of fiscal year 2011-12, one of the 19 tested employees who received multiple licenses pay was ineligible to receive it, resulting in an overpayment of \$526. This overpayment represents 0.5 percent of the \$113,350 of multiple licenses pay issued by the department in the quarter.

The Local 39 MOU states that employees are eligible for a premium of 7.5 percent for possession of multiple licenses and certifications when required by the regulating body or by the City in writing. According to the Airport, in this context "multiple licenses" means two or more eligible licenses and certifications. The employee the audit identified had only one eligible certification, so was ineligible for multiple licenses pay. Although the employee at one time had two eligible certificates, the employee did not properly complete yearly refresher trainings

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<sup>2</sup> A pay record is one instance of a pay type earned on one date by one employee.

required by the California Code of Regulations to keep the certification valid. The employee last received the required training on January 16, 2003.

According to the Airport, the employee previously retired, but was later reemployed by the Airport. Because the Airport does not have written policies and procedures for payroll staff to follow when administering multiple licenses pay, when the employee was reemployed, the Airport did not verify that the employee still had two eligible licenses or certifications before granting the multiple licenses pay. Without procedures requiring payroll staff to verify that employees meet the multiple licenses pay requirements, including the training requirements of the governing bodies, payroll staff may incorrectly or inconsistently grant this pay.

### **Recommendations**

The Airport should:

1. Cease paying multiple licenses pay to the ineligible employee.
2. Annually review the training records of employees who receive multiple licenses pay to ensure that these employees are eligible for this pay.
3. Develop and implement written policies and procedures on multiple licenses pay.

### **Finding 2 – The Airport does not clearly document the licenses and certifications required to receive multiple licenses pay.**

The Airport lacks documentation to identify the required licenses or certifications needed to receive multiple licenses pay. According to the Local 39 MOU, employees may receive this pay “when required by the regulating body (i.e., Department of Public Health and State Water Resources Control Board), or required by the City in writing.” According to DHR, city departments should maintain written documentation that states which licenses or certifications are required for each employee. However, DHR has not documented this requirement in a formal memorandum.<sup>3</sup>

Although Airport supervisors of employees eligible for multiple licenses pay indicated that it was understood between them and the employees that the licenses and certifications tested were required by a regulating body or the Airport, the Airport does not have documentation of the required licenses and certifications for each employee who receives this pay. Without this documentation, the Airport increases the risk that it may grant multiple licenses pay to employees who do not qualify for it.

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<sup>3</sup> DHR issues memorandums to guide departments on human resources topics that may impact payroll.

## Recommendations

4. The Airport should document licenses and certifications required for each employee receiving multiple licenses pay.
5. The Department of Human Resources should issue a citywide, formal memorandum requiring each department to maintain documentation that states which licenses or certificates their employees must hold to be eligible for each type of licensure-related or certification-related premium pay applicable to that department, if any.

### **Finding 3 – Although the Airport has written policies and procedures for payroll processing, they can be strengthened.**

The Airport has written policies and procedures for payroll processing, leaves of absence, and payroll deductions. However, the Airport's payroll policies and procedures need improvement.

The Airport does not have written policies or procedures for approving, recording, and controlling sick leave, vacations, floating holidays, overtime, and compensatory time. According to Airport staff, employees must complete requests for leave and overtime. Further, Airport staff runs leave and overtime reports to monitor usage and sends the reports to management for review after each pay period. Nonetheless, these procedures and requirements are not documented. As a result, practices for approving, reporting, and controlling various types of leave and overtime may be inconsistent among the department's divisions.

The Airport also lacks written procedures to define payroll clerks' responsibilities, including the important task of reconciling the number of employees whose time is submitted to department payroll staff to the number of employees who receive pay. Without such reviews and reconciliations, payroll errors could go undetected, resulting in over- and underpayments.

The Airport does not have written procedures documenting when it is acceptable to change the pay codes of previously processed pay data. Although the department approves pay code changes, it does not have criteria to establish when it is acceptable to change pay codes of previously processed payroll data, such as when an employee's previously entered time must be changed from vacation time to floating holiday time. Without documented procedures, payroll clerks may inconsistently process payroll, and the clerks' duties may not be easily taken on by a new employee when a payroll clerk leaves.

The United States Government Accountability Office states that an organization's internal controls and transactions must be clearly documented, and the documentation should appear in management directives, administrative policies, or operating manuals. Additionally, transactions should be reviewed to segregate duties.

## Recommendations

The Airport should:

6. Document and implement policies for approving, recording, and controlling sick leave, vacations, floating holidays, overtime, and compensatory time.
7. Document and implement policies defining payroll staff responsibilities including reconciling the number of employees whose time is submitted to department payroll staff to the number of employees who receive pay.
8. Document and establish criteria for when it is acceptable to change pay codes in previously processed pay data.

### **Finding 4 – Timesheets and overtime requests are signed but not dated.**

A sample of 23 timesheets showed that all were properly signed by supervisors. However, the audit could not determine whether the timesheets were approved before being submitted to the payroll clerks because none of the timesheets were dated when signed by the supervisors. Similarly, a sample of 24 overtime request forms showed that all were properly signed, but it is unclear whether the forms were approved before they were submitted to the payroll clerks because none of the forms were dated when signed.

It may be that supervisors do not document approval dates on the timesheets and overtime request forms because these forms do not have designated fields or blanks for approvers to do so. Because timesheets and overtime request forms were not dated, the audit could not verify that the hours submitted were properly approved before payroll clerks inputted employees' hours into TESS. If timesheets and overtime request forms are not approved before they are provided to the Payroll unit, payroll staff cannot be sure that hours submitted are accurate and appropriate, which could lead to inaccurate payments to employees.

To mitigate this risk, according to the Airport, before they input the hours into TESS, payroll clerks verify that submitted timesheets and overtime request forms are signed. If the timesheets are unsigned, the payroll clerks send them back to supervisors for approval. According to the Airport, the timesheets will not be inputted until approved. However, PPSD states that all time should be approved by departmental operations staff before the departmental payroll staff receives the timesheets. Additionally, according to Airport staff, employees are required to obtain overtime approval before the hours are worked. Proper timely approval can only be evidenced if the timesheets and overtime requests include both the approver's signature and the approver's date of signature.

## Recommendations

The Airport should:

9. Require that supervisors date timesheets when they approve them.
10. Require that supervisors date overtime request forms when they approve them and before the hours are worked.

### **Finding 5 – The hours of shifts eligible for shift pay in MOUs are not shown on some Airport timesheets, which show shift numbers instead of the hours worked.**

The MOUs for locals 6, 38, 39, 261, and 1021 specify the timeframes (hours of day) and premium percentages for shift pay, but 23 of the tested Airport timesheets for employees who earned shift pay state the shift number, not the hours of the day, the employee worked. Because the timesheets do not show the hours of the day that the employee worked, payroll staff interviewed for the audit did not know (and do not verify) whether the schedules of employees receiving shift pay qualified them for this pay. As a result, CSA had to inquire directly with the employees' supervisors to verify that the employees' work schedules made them eligible for shift pay. In this way the audit determined that the shift pay was properly awarded in all instances tested.

Adding hours worked to timesheets will increase clarity for departmental payroll staff. Without documentation of employees' hours worked, payroll staff cannot determine whether the employee is eligible for shift pay, which can result in payroll errors and over- and underpayments.

It would also be helpful to departmental payroll staff if the Airport defined in a policy the shift numbers used on Airport timesheets. Because all MOUs that provide for shift pay reviewed by the audit other than the Local 1414 MOU do not include shift numbers, there is no clear correlation between the shift number reported on the Airport's timesheets and the shift hours defined in the MOU.

## Recommendations

The Airport should:

11. Include on timesheets the hours of the day that the employee worked if the employee is to receive shift pay.
12. Create a policy that defines the hours covered by each shift number on employees' timesheets. This policy should consider shift schedules in each memorandum of understanding that covers Airport employees receiving shift pay.

**Finding 6 – Shift, overtime, and multiple licenses pay were calculated correctly.**

The department accurately calculated overtime, shift, and multiple licenses pay for the third quarter of fiscal year 2011-12.

According to the Airport, because it operates 24 hours per day, 7 days per week, some employees are eligible for shift pay. According to the Airport's MOUs, employees' shift pay premiums are based on their standard work schedules. Exhibit 5 lists the shift pay schedules and premium percentages in each MOU.

<b>EXHIBIT 5</b>		<b>Shift Pay Schedules and Percentages in Memorandums of Understanding Fiscal Year 2011-12</b>		
<b>MOU</b>	<b>Shift 2 Pay</b>	<b>Shift 2 Schedule</b>	<b>Shift 3 Pay</b>	<b>Shift 3 Schedule</b>
Local 6	8.5%	5:00 p.m. - 12:00 a.m.	10%	12:00 a.m. - 7:00 a.m.
Local 38	10.0%	5:00 p.m. - 7:00 a.m.	<i>Only one shift in MOU.</i>	
Local 39	8.5%	5:00 p.m. - 12:00 a.m.	10%	12:00 a.m. - 7:00 a.m.
Local 261	8.5%	5:00 p.m. - 12:00 a.m.	10%	12:00 a.m. - 7:00 a.m.
Local 1021	8.0%	5:00 p.m. - 7:00 a.m.	10%	12:00 a.m. - 7:00 a.m.
Local 1414	10.0%	9:01 a.m. - 5:59 p.m.	15%	6:00 p.m. - 5:59 a.m.

Note: Other requirements in the MOUs may impact employee eligibility for shift pay.

Source: MOUs.

All 23 timesheets tested for shift pay included pay rates that complied with the MOUs.

According the MOUs for locals 6, 38, 39, 261, 1021, and 1414, overtime pay is calculated at one-and-one half times the employee's regular hourly rate. All 20 pay records tested for overtime pay included pay rates that complied with the MOUs.

According to Local 39, the multiple licenses pay is a 7.5 percent premium that is applied to all paid hours. All 19 multiple licenses pay records tested showed that the pay rate complied with the Local 39 MOU.

The responses of the Airport and DHR are attached. CSA will work with the Airport and DHR to follow up on the status of the recommendations made in this memorandum. CSA extends its appreciation to you and your staff who assisted with this audit. If you have any questions or concerns, please contact me at (415) 554-5393 or [tonia.lediju@sfgov.org](mailto:tonia.lediju@sfgov.org).



December 18, 2012

cc: Airport

Wallace Tang

Alexander Lawrence

Leo Fermin

Tryg McCoy

Department of Human Resources

Susan Gard

Martin Gran

Jonathan Lyens

Steve Ponder

Controller

Ben Rosenfield

Irella Blackwood

Elisa Sullivan

Kate Kaczmarek

Mary Hom

December 18, 2012

## ATTACHMENT A: AIRPORT RESPONSE

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San Francisco International Airport

December 13, 2012

Ms. Tonia Lediju  
Director of Audits  
Office of the Controller  
City Services Auditor Division  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place, Room 477  
San Francisco, CA 94102

Subject: Responses to Findings from the San Francisco International Airport –  
Airport Payroll Audit

Dear Ms. Lediju:

We have received and reviewed the draft report regarding Airport Payroll. We appreciate the time and effort of your staff in conducting this audit. Enclosed for your review are Airport Human Resources' responses to the Office of the Controller's audit.

If you have any questions or require further information, please contact me at (650) 821-2099.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rafael Centeno".

Rafael Centeno  
Associate Deputy Airport Director  
Human Resources/Administration

Enclosure

cc: John L. Martin  
Tryg McCoy  
Theresa Lee  
Elisa Sullivan - CSA  
Kate Kaczmarek - CSA  
Mary Hom - CSA

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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MAYOR

LARRY MAZZOLA  
PRESIDENT

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VICE PRESIDENT

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December 18, 2012

## ATTACHMENT B: DEPARTMENT OF HUMAN RESOURCES RESPONSE

---

City and County of San Francisco



Department of Human Resources

Edwin M. Lee  
Mayor

Micki Callahan  
Human Resources Director

December 10, 2012

Tonia Lediju, Director of City Audits  
City Services Auditor Division  
Office of the Controller  
City Hall, Room 476  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

---

**RE: Department of Human Resource response to recommendation 5 of the Airport Payroll Audit**

Dear Ms. Lediju:

Thank you for allowing the Department of Human Resources ("DHR") the opportunity to respond to recommendation 5 of the City Controller's draft Airport Payroll Audit, dated December 14, 2012.

Attached for your review, please find DHR's response to this recommendation.

If there are additional questions, or if DHR can be of additional assistance in this process, please contact Martin Gran, Director of Employee Relations, at (415) 557-4990.

Sincerely,

A handwritten signature in black ink, appearing to read "Micki Callahan".

Micki Callahan  
Director Of Human Resources

Cc: Martin Gran, Director of Employee Relations  
Christina Fong, Senior Employee Relations Representative

For each recommendation, indicate whether the department concurs, does not concur, or partially concurs. If the department concurs with the recommendation, please indicate the expected implementation date and implementation plan. If the department does not concur or partially concurs, please provide an explanation and an alternate plan of action to address the identified issue.

## ATTACHMENT C: RECOMMENDATIONS AND RESPONSES

Recommendation	Responsible Agency	Response
1. The Airport should cease paying multiple licenses pay to the ineligible employee.	Airport Commission	Concur. The Airport will cease payment of MLP to the one ineligible employee effective PPE 12/7/2012.
2. The Airport should annually review the training records of employees who receive multiple licenses pay to ensure that these employees are eligible for this pay.	Airport Commission	Concur. The Airport will comply with this recommendation and will start performing an annual review in Fiscal Year 2013.
3. The Airport should develop and implement written policies and procedures on multiple licenses pay.	Airport Commission	Concur. The Airport will create a written policy and procedure to ensure that employees who receive multiple license pay are eligible for this pay. The expected implementation date is by the end of Fiscal Year 2013.
4. The Airport should document licenses and certifications required for each employee receiving multiple licenses pay.	Airport Commission	Concur. The Airport will comply with this recommendation. The expected implementation date is by the end of Fiscal Year 2013.

Recommendation	Responsible Agency	Response
<p>5. The Department of Human Resources should issue a citywide, formal memorandum requiring each department to maintain documentation that states which licenses or certificates their employees must hold to be eligible for each type of licensure-related or certification-related premium pay applicable to that department, if any.</p>	<p>Department of Human Resources</p>	<p>Partially concur.</p> <p>The Department of Human Resources regularly reminds all City departments to maintain quality records of each employee receiving these types of premiums. These notices state the need for departments to maintain written records detailing, by employee, the certifications and licenses the department is requiring the employee to obtain, as well as all documentations directing employees to obtain such certifications &amp; licenses. DHR also instructs departments to keep copies of each certification and license earn by each employee qualifying for premiums as a result of certifications and licenses obtained. DHR will codify these requirements in a formal memorandum to be issued on or before January 31, 2013.</p>
<p>6. The Airport should document and implement policies for approving, recording, and controlling sick leave, vacations, floating holidays, overtime, and compensatory time.</p>	<p>Airport Commission</p>	<p>Concur.</p> <p>The Airport will comply with this recommendation. The expected implementation date is by the end of Fiscal Year 2013.</p>
<p>7. The Airport should document and implement policies defining payroll staff responsibilities including reconciling the number of employees whose time is submitted to department payroll staff to the number of employees who receive pay.</p>	<p>Airport Commission</p>	<p>Partially concur.</p> <p>The Airport has an internal 80 hours audit system that reconciles the total employee timesheets submitted with the total employee paid in the transmittal report that eMerge provides every pay day. The transmittal report is a listing of employees who receive paychecks on the pay date. The Airport began signing off the transmittal report after reconciliation effective December 3, 2012.</p>
<p>8. The Airport should document and establish criteria for when it is acceptable to change pay codes in previously processed pay data.</p>	<p>Airport Commission</p>	<p>Concur.</p> <p>The Airport will comply with this recommendation. The expected implementation date is January 2013.</p>

Recommendation	Responsible Agency	Response
<p>9. The Airport should require that supervisors date timesheets when they approve them.</p>	<p>Airport Commission</p>	<p>Concur.                      The Airport will comply with this recommendation. The expected implementation date will commence on PPE 12/21/2012.</p>
<p>10. The Airport should require that supervisors date overtime request forms when they approve them and before the hours are worked.</p>	<p>Airport Commission</p>	<p>Concur.                      The Airport will comply with this recommendation. The expected implementation date will commence on PPE 12/21/2012.</p>
<p>11. The Airport should include on timesheets the hours of the day that the employee worked if the employee is to receive shift pay.</p>	<p>Airport Commission</p>	<p>Partially concur.                      Due to the Airport's 24/7 operations schedule and the limited space on the time sheet, it is difficult to put the actual shift hours on the timesheet. However, Airport will attempt to comply with this recommendation, if deemed feasible, by the end of Fiscal Year 2013.</p>
<p>12. The Airport should create a policy that defines the hours covered by each shift number on employees' timesheets. This policy should consider shift schedules in each memorandum of understanding that covers Airport employees receiving shift pay.</p>	<p>Airport Commission</p>	<p>Concur.                      The Airport will draft a policy that defines the hours covered by each shift as per the relevant MOU. The expected implementation date is by the end of Fiscal Year 2013.</p>

BDS-11

**From:** Nastro, Louis [lnastro@parks.ca.gov]  
**Sent:** Wednesday, December 12, 2012 9:01 AM  
**To:** Nastro, Louis  
**Subject:** Public Notice - California State Park and Recreation Commission

Dear interested party,

You're receiving this message because you have expressed an interest in items that appear on the agenda of the meeting announced below. You or your representative may have provided your email address at a related public meeting, at a time possibly as long as three-to-five years in the past. We appreciate that you may no longer have an interest in the matter noticed below. If that is the case please accept our apologies and disregard this message.

Thank you,  
Louis Nastro  
Assistant to the  
State Park and Recreation Commission

**PUBLIC NOTICE  
CALIFORNIA STATE PARK AND RECREATION COMMISSION**

NOTICE IS HEREBY GIVEN that the California State Park and Recreation Commission, pursuant to authority contained in Sections 539, 5002.3, 5019.50, 5080.03, 5080.20, et al. of Public Resources Code, Section 11120 et seq. of Government Code, and other applicable law, will meet on Friday, January 18th, 2013 at 9:00 a.m. in the Ghirardelli/Union Square Room of the Radisson Hotel San Francisco Airport, 5000 Sierra Point Parkway, in Brisbane, California.

Agenda items include consideration and possible action on the Department recommendation to approve the General Plan/Environmental Impact Report (EIR) for Candlestick Point State Recreation Area. The agenda will also include presentations and discussion of the following: An update on the state of State Parks, including status of staffing; Implementation of the changes of AB1478, including how AB1478 affects the budget of State Parks and the Commission; New roles and budget for the Commission as described in AB1278, and an overview and discussion of department-wide deferred maintenance projects. The agenda will also include a request for Commission concurrence on the Director's appointment of Greg A. Neal to the board of the California Citrus State Historic Park Non-Profit Management Corporation.

The General Plan/EIR for Candlestick Point State Recreation Area will be available for review at these locations: State Parks Bay Sector office, 1150 Carroll Avenue, San Francisco; State Parks Diablo Vista District office, 845 Casa Grande Road, Petaluma; San Francisco Main Library, 100 Larkin Street, San Francisco; Bayview Library, 1601 Lane Street, San Francisco; and on the Internet at [www.parks.ca.gov/?page\\_id=21312](http://www.parks.ca.gov/?page_id=21312).

NOTICE IS ALSO GIVEN that the Commission will take part in a briefing on the general plan for Candlestick Point State Recreation Area on Thursday, January 17th, 2013. The briefing will begin at 12 Noon at California State Parks Bay Sector office, 1150 Carroll Avenue, in San Francisco. No deliberations will take place and no action will be taken by the Commission during the briefing.

NOTICE IS GIVEN that any person may file a statement regarding meeting items by writing to State Park and Recreation Commission, P.O. Box 942896, Sacramento, CA 94296-0001, by emailing [P&RCommission@parks.ca.gov](mailto:P&RCommission@parks.ca.gov), 916/653-0524, or by presenting oral or written statements at the meeting at 9:00 a.m. or as soon thereafter as the matter may be heard. California State Parks does not discriminate against individuals with disabilities. Visitors who wish assistance should contact the address above at least 72 hours prior to arrival.

**Agenda of the 1-18-13 meeting:**

1. Approval of minutes of the September 28, 2012 meeting in Santa Monica.
2. Chair's Report, Commissioner reports/comments, Recognitions.
3. Approval of Special Redwood Groves – as requested by Save the Redwoods League and Sempervirens Fund.
4. Director's Report, including:
  - Update on the state of State Parks, including status of staffing.
  - Implementation of the changes of AB1478:
    - How AB1478 affects the budget of State Parks and the Commission.
    - New roles and budget for the Commission.
    - Overview and discussion of department-wide deferred maintenance projects.
5. Public Comment (on subjects other than the listed agenda items)
6. Public Hearing:
  - A. Consent Item\*\* (reflecting staff recommendations)
    - Concurrence on the Director's appointment of Greg A. Neal to the board of the California Citrus State Historic Park Non-Profit Management Corporation.
  - B. Consideration and possible action on the Department recommendation to approve the general plan and environmental impact report for Candlestick Point State Recreation Area.
7. Adjourn.

Copies of this agenda and the public notice of the meeting are available on the Internet at [www.parks.ca.gov/default.asp?page\\_id=936](http://www.parks.ca.gov/default.asp?page_id=936)

\*\* The Commission may approve consent items all at once without discussion. Any person requesting an opportunity to be heard with regard to consent items must complete a Speaker Registration Form (names are not required) prior to the announcement at the meeting of agenda item 6A, Consent Items. If such a request is made, the item(s) in question shall be pulled from the consent list for discussion and/or public comment.



121134

**From:** Anmarie Mabbutt [tenniselement@yahoo.com]  
**Sent:** Tuesday, December 11, 2012 12:23 PM  
**To:** Kim, Jane  
**Cc:** Board of Supervisors; Campos, David; Mar, Eric (BOS); Farrell, Mark; Wiener, Scott; Chu, Carmen; Avalos, John; Cohen, Malia; Elsbernd, Sean; Chiu, David; Olague, Christina  
**Subject:** PLEASE READ - Vote NO on File # 121134

Dear Board President Chiu and the rest of the members of the Board of Supervisors,

**I am writing today to urge you to vote NO on File #121134. In its current form, the Outside Lands permit violates local law including several major portions of the Recreation and Parks Department's Permits and Reservations Policy, Resolution #9705-073.** Per the San Francisco City Charter Sections 4.102, 4.104 and 4.113, the Recreation and Park Commission formulates all policies regarding the use of San Francisco's public park space. The Commission is empowered to set general policies as well as detailed guidelines regarding the use of park space. Commission resolutions carry the force and effect of law. **The current Permits and Reservations Policy, approved after extensive discussions and public input, limits use of the Polo Fields for large, nonathletic events to no more than 4 days per year, all of which must be at least six weeks apart.** The Commissioners approved these restrictions after a seemingly endless stream of "Bill Graham Presents" concerts during the 1980's and 1990's had ravaged the Polo Fields. Both the General Manager and the Commissioners were convinced that changes were needed to help protect and preserve the Polo Fields and the Western Meadows. Before you vote on File #121134, please take ten minutes to review this document. The RPD Permits and Reservations policy clearly states large (25,000+ people), non-athletic, amplified sound events at the Polo Fields are limited to 4 days per year and all events must be scheduled at least 6 weeks apart!

In the mid-1980's, after a series of music concerts at the Polo Fields severely damaged the fields, the Recreation and Parks Commission approved a moratorium on any further large scale musical events at the Polo Fields. **At the July 18, 1985 Commission meeting, after extensive discussions and public testimony, the Commissioners approved a moratorium on any further large scale musical events until a policy was developed that would guide any future use of the Polo Fields as a concert venue.** The moratorium, which lasted more than a year, was prompted by a request from Imagine Nine Entertainment to hold a 2 day musical event at the Polo Fields in June 1985. The concert had originally been approved for Kezar Stadium but the promoters decided they wanted to use the Polo Fields or Speedway Meadow instead. Then General Manger Mary Burns, concerned over the damage to the Polo Fields from these mass concerts, refused their request and immediately began working to revise the Permits and Reservations Policy. **On December 19, 1985, the Commissioners approved major revisions to the Policy. Intended to strike a more appropriate balance between the needs of the Park, concert goers and passive recreational users, the newly revised Policy included severe restrictions on the use of the Polo Fields for large nonathletic events and these restrictions remain in place to this day!**

For the next five years or so, life at the Polo Fields was much quieter and peaceful. But then came the tragic plane crash on October 25, 1991 that killed Bill Graham and two other people. A few days later, the Polo Fields was host to the tribute concert that celebrated Bill Graham's life. On November 3, 1991, the Love, Laughter and Music Festival brought 300,000 people to the Polo Fields. The damage to the Fields was extensive. Newspaper reports estimated \$100,000 in damage. In the months that followed, the Recreation and Park Commission considered further restrictions on the use of the Polo Fields for musical events. The Commissioners approved strict capacity limits for all of Golden Gate Park's most popular concert sites - the Polo Fields, Speedway Meadow, Marx Meadow, Lindley Meadow, Speedway Meadow, etc. Despite these additional restrictions, the Polo Fields became the premier spot in the City for major music events. Ironically, almost all of these events

were put on by Greg Perloff and the staff of Bill Graham Presents including the September 19, 1993 Peter Gabriel WOMAD Festival, the Pearl Jam/Neil Young concert on June 24, 1995 and the Tibetan Freedom Concert on June 15-16, 1996.

For the Tibetan Freedom Concert in June 1996, the staff of Bill Graham Presents had to secure approval from the Commission for an exception to the Permits and Reservations Policy ban on the use of the Polo Fields for multiday events. And for the June 1995 Pearl Jam concert, a Chronicle article on the upcoming concert references the RPD Permit and Reservations Policy's one day restriction for large musical events at the Polo Fields. **So clearly RPD staff, the Commissioners and event promoters including Greg Perloff were and are well aware of the current Policy's restrictions regarding the use of the Polo Fields as a concert venue.**

After the Tibetan Freedom Concert in June 1996, the Polo Fields were closed for a major renovation. The renovation project took more than six months and cost approximately \$420,000. Even before the fields reopened, concert and event promoters were knocking on the doors at McLaren Lodge. One of the first requests was for a music festival on October 11, 1997 at the Polo Fields to celebrate the 30th anniversary of the 1967 Human Be-in. Determined to protect and preserve the newly renovated Polo Fields, RPD General Manager Joel Robinson refused their request. In an April 1997 Chronicle article, GM Robinson said "You will find me laying down on that field before they have another rock concert out there." Yes, there was a time not so long ago when the General Manager and the Recreation and Park Commissioners fulfilled their obligations to serve as stewards of the public park space in San Francisco. But, by 1999, the pressure from the Mayor's Office to commercialize Golden Gate Park had grown too strong even for GM Robinson. Despite his objections, RPD staff issued a permit for the Guinness Fleadh Festival on June 5, 1999. Another Bill Graham Presents event, the Fleadh Festival was never approved let alone discussed by the Commission. Less than a year later, GM Robinson resigned and the race was on to convert the Polo Fields into San Francisco's premier concert venue.

**At the November 15, 2007 and the January 17, 2008 Commission meetings that approved the first Outside Lands Festival permit, there is absolutely no mention of the Permits and Reservations Policy or the severe restrictions on the use of the Polo Fields for concerts.** I have spoken with a member of the public who sat on the initial selection committee and they confirmed they had no knowledge of the Policy and RPD staff nor the Commissioners ever spoke a word about it. At the January 17, 2008 meeting the Commissioners also approved a year long moratorium on any new concert requests until RPD staff could develop a specific multiday festival and concert policy. That never happened. It appears RPD staff ignored the Commission request, deciding it would be best not to draw any attention to the current Permit and Reservations Policy and its restrictions. Despite the lack of a new concert specific policy, **at the April 16, 2009 Commission meeting, the Commission approved the first multiyear permit for the Outside Lands Festival. During the meeting, there was again no mention by RPD staff or the Commissioners of the current Permit and Reservations Policy and its restrictions on the use of the Polo Fields as a concert venue. And just last month at the November 26 Commission meeting that approved an eight year extension of the current Outside Lands Festival, there is absolutely no mention of the current Permit and Reservations or its restrictions on the use of the Polo Fields for large musical events. In the drive to commercialize the public park space, the lessons and wisdom of the past have been quietly cast aside.**

Please fulfill your obligations as stewards of San Francisco's public park space and vote NO on File #121134. Thank you for your time. Please include this letter as part of the correspondence for File #121134 and for the next full meeting of the Board of Supervisors.

Sincerely,

Anmarie Mabbutt

**Public Nudity!**

Linda Banner [llbanner@earthlink.net]

Sent: Tuesday, December 04, 2012 8:21 AM

To: Board of Supervisors

File 120984

I wrote a letter to Mayor Ed Lee also and want to make sure that the entire Board understands my position. Although I am not a resident of San Francisco, I do own 21 days of timeshare in a Nob Hill hotel and pay city taxes. Additionally, I am a member of the California Academy of Sciences, DeYoung Museum, and the SF-MOMA. As I explained to Mayor Lee, I bring my 13 year old granddaughters up to SF several times a year to shop, visit the museums, and stay in our timeshare. On our last visit, we were driving on a Saturday afternoon from Golden Gate Park to the Nob Hill hotel and passed three men walking naked down Market Street. My granddaughters were "inappropriately sexualized" and horrified to see this! I am a Sexual Medicine expert and know the profound impact of children being inappropriately sexualized at a young and tender age! I find it deplorable that SF would even consider this inappropriate behavior as somewhat acceptable. My feeling is if these people want to be weird, let them go to Santa Cruz, go to private nude beaches, or stay in their own homes! The fact that it is "legal to be nude for fairs, and gay pride parade" is beyond comprehension. As a sexual medicine expert, I have attended the Folsom Street Fair and tell my patients that I say more penises that day than I have in all my years working in a Urology clinic whether at Stanford, UCSF, or Boston University! As I told Mayor Lee, if this ban is not passed, we will sell our timeshare and stop our memberships! Thank you for your attention to this request! Respectfully submitted, Dr Linda Banner

---

**From:** elnino@rcn.com  
**Sent:** Thursday, December 06, 2012 7:17 PM  
**Subject:** Cover up – "Wiener Six" supes OK nudity ban: Supervisors Wiener, Mark Farrell, David Chiu, Carmen Chu, Malia Cohen, and

Cover up – supes OK nudity ban: "I see naked men walking around which doesn't bother me as far as my personal standards of nudity, but it's just not proper," – Supervisor Dan White, 1978. - "I don't have a problem with nudity in general, but it's not proper to expose your genitals on the street corner for hours and hours." – Supervisor Scott Wiener, 2012.

Cover up – supes OK nudity ban News Published 12/06/2012 by David-Elijah Nahmod  
<http://www.ebar.com/news/article.php?sec=news&article=68312>

In 1978 San Francisco Supervisor Dan White killed San Francisco Supervisor Harvey Milk; In 2012 San Francisco Supervisor Scott Wiener Killed Nudity, Tolerance, and the Spirit of the Community in Harvey Milk Plaza!

- "I see naked men walking around which doesn't bother me as far as my personal standards of nudity, but it's just not proper," – Supervisor Dan White, 1978.

- "I don't have a problem with nudity in general, but it's not proper to expose your genitals on the street corner for hours and hours." – Supervisor Scott Wiener, 2012.

With All Due Respect,  
Native Born Long-time LGBT Residents/Home Owners/Business Owners of San Francisco

File 120984

## **Naked Truth: The San Francisco Human Rights Commission Finds Gay Racism in the Castro**

elnino@rcn.com

Sent: Tuesday, December 04, 2012 8:12 AM

Naked Truth: The San Francisco Human Rights Commission Finds Gay Racism in the Castro

The Honorable Members Of  
San Francisco Board of Supervisors  
1 Doctor Carlton B Goodlett Place  
San Francisco, CA 94102-4689

Re: Naked Truth: The San Francisco Human Rights Commission Finds Gay Racism in the Castro

Dear Honorable Members Of  
San Francisco Board of Supervisors:

The San Francisco Human Rights Commission released three findings that found the bar and nightclub SF Badlands in violation of San Francisco Police Code that prohibits discrimination in employment and public accommodations on the basis of race.

It is important we understand Gay Racism in the Castro and commending the San Francisco Human Rights Commission for its findings of discrimination in the Castro.

We ask you to re-consider acts of non-violent first amendment and fourth amendment protected rights weighed along side the San Francisco Human Rights Commission's findings of discrimination in the Castro.

We thank you for your time and attention.

With All Due Respect,  
Native born LGBT residents/home owners/business owners of San Francisco in support of nudity and tourism dollars in San Francisco

The San Francisco Human Rights Commission Summary:

The San Francisco Human Rights Commission released three findings that found the bar and nightclub SF Badlands in violation of San Francisco Police Code that prohibits discrimination in employment and public accommodations on the basis of race.

Featured speakers/guests:

John Newsome, Don Romesburg, Myong Leigh, Jamez Smith

NEWS -- SF Finds Badlands Discriminates Against African American Patrons  
[http://audioport.org/index.php?op=program-info&program\\_id=2031](http://audioport.org/index.php?op=program-info&program_id=2031)

Badlands Confidential

<http://www.sfweekly.com/2005-06-29/news/badlands-confidential/>

Is there a race problem at a Castro gay bar -- or a propriety problem in a city supervisor's office?

Stranger in a Badland

[http://www.sfbg.com/39/29/x\\_biznews.html](http://www.sfbg.com/39/29/x_biznews.html)

The battle over discrimination in the Castro continues.

Badlands: What's next?

[http://www.sfbg.com/39/47/x\\_oped.html](http://www.sfbg.com/39/47/x_oped.html)

Boycott of Badlands Begins

[http://www.sfbaytimes.com/?sec=article&article\\_id=3625](http://www.sfbaytimes.com/?sec=article&article_id=3625)

Guest Column: Gay Racism in the Castro by Keith Boykin

[http://jasmyneconnick.typepad.com/jasmyneconnickcom/2005/05/gay\\_racism\\_in\\_t.html](http://jasmyneconnick.typepad.com/jasmyneconnickcom/2005/05/gay_racism_in_t.html)

Commending the San Francisco Human Rights Commission for its findings of discrimination

against SF Badlands and urging relevant agencies to impose penalties to the fullest extent of the law.]

<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions05/r0456-05.pdf>

Weird homophobic attack ad from the San Francisco Association of Realtors

<http://www.sfbg.com/politics/2012/10/08/weird-homophobic-attack-ad-association-realtors>

BOS-11, page

File 121090

# Allen Matkins

## Facsimile

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law  
www.allenmatkins.com

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2012 DEC 11 PM 1:09

**To: Angela Calvillo**  
**Clerk of the Board of Supervisors**  
City Hall, Room 244  
Fax: 415.554.5163 | Phone: 415.554.5184

**From: Mark J. Seifert**

Date: December 11, 2012

Telephone: 415.273.7433

E-mail: mseifert@allenmatkins.com

File Number: 371835-00002/SF868196.01

Total pages including cover sheet: 06

**Re: December 11, 2012 Hearing to Consider Property Acquisition by Eminent Domain of a Construction License for the Central Subway / Third Street Light Rail Extension at 1 Stockton Street – Objections to the Proposed Resolution of Necessity (File No. 121090)**

### Comments:

Please see attached correspondence.

Original will:  be sent via mail  be sent via messenger  be sent via fedex/courier  be sent via email  not be sent

*Note: The information contained in this facsimile document is confidential and is intended only for the use of the individual named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original document to us at the above address via U.S. Mail. We will reimburse you for the postage. Thank you.*

# Allen Matkins

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Mark J. Seifert  
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Direct Dial: 415.273.7433 File Number: 371835-00002/SF868016.03

## Via Messenger and Facsimile

December 11, 2012

Angela Calvillo  
Clerk of the Board of Supervisors  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: December 11, 2012 Hearing to Consider Property Acquisition by Eminent Domain of a Construction License for the Central Subway / Third Street Light Rail Extension at 1 Stockton Street -- Objections to the Proposed Resolution of Necessity (File No. 121090)**

Dear Ms. Calvillo:

This firm represents Deka USA Stockton LP, the owner of the property commonly known as 1 Stockton Street in San Francisco, California. Said property is the subject of a proposed resolution scheduled to be considered by the Board of Supervisors of the City and County of San Francisco ("City") at a hearing held pursuant to the *Notice of Public Hearing to Consider Property Acquisition -- Eminent Domain, Interest in Real Property: A Temporary Construction License at the Real Property Commonly Known as 1 Stockton Street, San Francisco, California, Assessor's Parcel Block No. 0327, Lot No. 025, for the Public Purpose of Constructing the Central Subway / Third Street Light Rail Extension and Other Improvements* ("Notice of Public Hearing"). The file number assigned to this particular property is File No. 121090. The Board of Supervisors proposes to hold that hearing on Tuesday, December 11, 2012, at 3:00 p.m.

The purpose of this letter is to detail Deka USA Stockton LP's objections to the City's adoption of the proposed resolution of necessity. We request that copies of this objection letter be distributed to each of the members of the Board of Supervisors prior to their consideration of the proposed resolution. Deka USA Stockton LP reserves the right to make further and different objections before and at the hearing.



Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law

Angela Calvillo  
December 11, 2012

Page 2

## **OBJECTIONS**

### **The License Does Not Describe the Extent of the Property to Be Taken With Sufficient Detail for Reasonable Identification**

A resolution of necessity is invalid if it does not contain a "description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification." (Code Civ. Proc. § 1240.230(b).) Here, the proposed resolution refers to the license as being "more particularly described in File No. 121090, including Exhibit A (the 'License') and as shown in Exhibit B (the 'Project Alignment'), on file with the Clerk of the Board of Supervisors, which is hereby declared to be a part of this resolution as if set forth fully herein." This description is insufficient because it purports to state that the interests being condemned extend beyond what is described in the two identified Exhibits. Moreover, documentation could be added to the file and thus create further ambiguity as to what is being condemned. Finally, the document identified in the resolution as "Exhibit A (the 'License')" does not provide any information as to when the grouting pipe installation or monitoring equipment will be installed or removed (if ever), when the access rights start or stop, or the extent of access permitted.

### **The City Did Not Make a Valid Section 7267.2 Offer Because the License Described in the Offer Is Materially Different From the License Described in the Proposed Resolution**

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that it has first made an offer to the property owner to acquire the property to be condemned. (Gov. Code § 7267.2(a)(1).) Here, the City presented an offer to the property owner in the form of a license agreement that included extensive terms governing such issues as when the grouting pipe installation and monitoring equipment will be installed and removed, when the access rights start and stop, and the extent of access permitted. The license described in Exhibit A to the resolution, by contrast, contains no such terms. Setting aside the fact that the offer presented in the license agreement was substantively objectionable (as discussed below), that offer was materially different from what is set forth in the resolution of necessity. The offer thus was invalid under Government Code section 7267.2.

### **With Respect to the License, the Project Has Not Been Planned or Located in a Manner That Will Be Most Compatible With the Greatest Public Good and Least Private Injury**

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that "the project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury." (Code Civ. Proc. § 1240.030(b).) The City's proposed license does not satisfy this requirement. The City characterizes the license as "temporary," yet the license set forth in Exhibit A to the resolution purports to be perpetual. More specifically:

- **Start Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no start date, thus effectively purporting to give the City an option in perpetuity to commence the work or access the property. By contrast, the license offered in the

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law

Angela Calvillo  
December 11, 2012

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license agreement contained provisions (albeit objectionable provisions) concerning the start date, thus demonstrating that the City does not need a perpetual option to start the work.

• **Start Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would allow work and access to start at any time after issuance of a final Baseline Report concerning the condition of the property. Yet the license agreement does not provide a specific deadline for initiating the process for preparing the Baseline Report, or for the City to provide a draft Baseline Report to the property owner. Instead, the license agreement provides a deadline for completion of the work and the end of the term, but those deadlines are problematic as discussed below.

• **End Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no end date for the installation or removal work, or the access rights concerning the monitoring equipment. As such, the license thus would be the equivalent of an easement in perpetuity, and not a temporary license as the City claims. By contrast, the license offered in the license agreement contained provisions (albeit objectionable provisions) concerning the end date, thus demonstrating that the City does not need a perpetual easement.

• **End Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would be objectionable with respect to the work end date. It states that the installation of the grouting pipe installation and monitoring equipment shall be completed by December 31, 2015, with this date extended for "reasonably unavoidable delays." The license goes on to define "unavoidable delays" as including numerous occurrences that are outside of the City's control, such as labor disputes, inability to obtain labor or materials, federal or state governmental restrictions, and a catchall for "any other reason beyond City's reasonable control." But the provision concerning the work schedule sets **no outer limit** on how many months (or years) the license can be extended based on such occurrences. The potential for delay is a real concern, and not just a theoretical issue, given the scope of the Central Subway project, the myriad moving parts that must come together to complete the work that affects the subject property, and the dependence on state and federal funding. This imposes a significant burden on the property.

• **Term End Date / Installation Left in Place Under the License Agreement Proposed in the Offer:** Another problem with the license agreement offered by the City is that it expires on December 31, 2017, but the City would have an option to extend this date for up to two years. In other words, the license potentially would run through December 31, 2019, which is approximately seven years from now. And this assumes that the provision governing the expiration of the license supersedes the provision allowing the completion of the work to be delayed based on "reasonably unavoidable delays." At any rate, the license also provides that the City would have the right to abandon the grouting pipe installation in place. Given that this installation, along with any injected grouting material, will be deep underground, it will be impractical for the property owner to remove it, and it will remain in place indefinitely.

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law

Angela Calvillo  
December 11, 2012

Page 4

Because the purportedly "temporary" license set forth in Exhibit A to the resolution is unlimited in time, it is the practical equivalent of an easement taking with respect to the grouting pipe and monitoring equipment installation, as well as access to the monitoring equipment. This is particularly true considering that the takings analysis must assume the "most injurious use" of the property possible under the resolution's language. (See *County of San Diego v. Bressi* (1986) 184 Cal.App.3d 112, 123.)

But the City has no need for such a taking, as reflected in the license agreement offered by the City. The City only needs a reasonably limited temporary construction license. Thus, by drafting the license so broadly, the City has not planned its project in a manner that will be most compatible with the greatest public good and least private injury.

**The City Has Failed to Make an Offer of Just Compensation  
Based on a Proper Appraisal of the Property**

The City must pay the property owner for the fair market value of the property taken. (Cal. Const., art. I, § 19; Code Civ. Proc. § 1263.310.) But the City's appraisal failed to acknowledge that the license proposed in Exhibit A to the resolution is **not temporary** (as discussed above), and failed to acknowledge the taking of several property rights that would entitle the property owner to additional compensation. Because of these defects in the appraisal, the City has not properly made an offer pursuant to Government Code section 7267.2 and cannot make a finding that it has. Thus, the City cannot properly adopt a resolution of necessity. Furthermore, because the evidence presented in these objections establishes that the City's appraisal is defective, the City must commission a new or updated appraisal and make a new offer before proceeding with a resolution of necessity. (See 25 Cal. Code Reg. § 6182(i)(2).) More specifically:

- **The Property Owner Is Entitled to the Full Value of the Area Designated for the Construction:** The City must compensate the property owner for the "most injurious use" of the proposed taking under the language of its resolution of necessity. (*County of San Diego v. Bressi* (1986) 184 Cal.App.3d 112, 123.) Here, the City drafted the license described in Exhibit A to the resolution as having an open-ended start date, no end date, and potentially perpetual access to the property. This is the practical equivalent of taking an easement (as discussed above). But the City instead appraised the license as a "temporary" construction license, and the City made its offer accordingly. The City thus has **not** made a Government Code section 7267.2 offer.
- **The Property Owner Is Entitled to Temporary Severance Damages for the Period of Construction:** The City's appraisal misses the substantial severance damages to the remainder of the property, concluding that there is "nominal impact on the utility of the Site Area, since it will continue to provide essentially all its functions without deficiency as a result of the project." There is no basis for this statement. Setting aside the damage the taking will permanently cause to the property, the damage during the construction period alone will be significant. The construction will generate noise, dust, and fumes that will damage the property. This is compensable. (See *Pierpont Inn, Inc. v. State of California* (1969) 70 Cal.2d 282.) Furthermore,

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Angela Calvillo  
December 11, 2012

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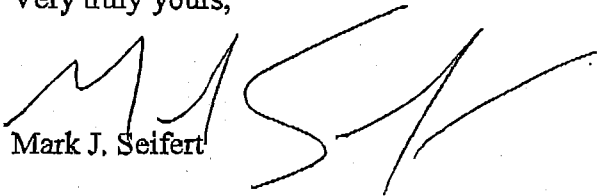
during construction, access to the property will be impaired as a result of the various traffic detours required for the City to complete construction. In addition, the City's appraisal fails to assign any value to the monitoring equipment component of the license, yet the license itself would allow for interference with use of the property in that the equipment would remain installed at the property and the City would have rights to enter the property to access that equipment. Since the City's appraisal failed to account for these severance damages, the City has not made a proper Government Code section 7267.2 offer.

• **The Property Owner Is Also Entitled to Permanent Severance Damages:** In addition to the damages that will occur to the property during construction, the City's proposed taking will, as a practical matter, result in permanent severance damages to the property. After the completion of the Central Subway project, access to the property will be impaired. Pedestrian and public transit traffic on the surface of Stockton Street will be diverted underground, notwithstanding the fact that this is a highly popular retail corridor that depends on its visibility and accessibility to surface traffic. The property owner is thus entitled to severance damages for the loss of access to its property. (*City of Livermore v. Baca* (2012) 205 Cal.App.4th 1460, 1468, 1472; *Pierpont Inn, Inc. v. State of California* (1969) 70 Cal.2d 282, 295.) Each of these damages must be considered in the City's appraisal and included in the City's offer of compensation.

### CONCLUSION

For the reasons set forth in this letter, the Board of Supervisors cannot validly adopt the proposed resolution of necessity to acquire the subject license. Therefore, the property owner requests that the Board of Supervisors not proceed with the hearing on the proposed resolution or, if it proceeds, that it reject the defective resolution. Indeed, the City has shown little urgency in completing the license negotiations, as reflected by the significant delay in providing geotechnical information needed to evaluate the license agreement offered by the City, and further delay in responding to comments on the license agreement (which comments were provided on October 22, 2012 but have yet to be addressed). Accordingly, it would be prudent for the board of Supervisors, at a minimum, to postpone consideration of the license pending further negotiations. Finally, the property owner requests that the City have a new appraisal completed that corrects the valuation defects outlined in these objections so the City can make a proper Government Code section 7267.2 offer.

Very truly yours,

  
Mark J. Seifert

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Allen Matkins

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BY AK

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**Via Messenger and Facsimile**

December 11, 2012

Angela Calvillo  
Clerk of the Board of Supervisors  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: December 11, 2012 Hearing to Consider Property Acquisition by  
Eminent Domain of a Construction License for the Central Subway /  
Third Street Light Rail Extension at 1 Stockton Street -- Objections  
to the Proposed Resolution of Necessity (File No. 121090)**

Dear Ms. Calvillo:

This firm represents Deka USA Stockton LP, the owner of the property commonly known as 1 Stockton Street in San Francisco, California. Said property is the subject of a proposed resolution scheduled to be considered by the Board of Supervisors of the City and County of San Francisco ("City") at a hearing held pursuant to the *Notice of Public Hearing to Consider Property Acquisition – Eminent Domain, Interest in Real Property: A Temporary Construction License at the Real Property Commonly Known as 1 Stockton Street, San Francisco, California, Assessor's Parcel Block No. 0327, Lot No. 025, for the Public Purpose of Constructing the Central Subway / Third Street Light Rail Extension and Other Improvements* ("Notice of Public Hearing"). The file number assigned to this particular property is File No. 121090. The Board of Supervisors proposes to hold that hearing on Tuesday, December 11, 2012, at 3:00 p.m.

The purpose of this letter is to detail Deka USA Stockton LP's objections to the City's adoption of the proposed resolution of necessity. We request that copies of this objection letter be distributed to each of the members of the Board of Supervisors prior to their consideration of the proposed resolution. Deka USA Stockton LP reserves the right to make further and different objections before and at the hearing.

Angela Calvillo  
December 11, 2012

Page 2

## **OBJECTIONS**

### **The License Does Not Describe the Extent of the Property to Be Taken With Sufficient Detail for Reasonable Identification**

A resolution of necessity is invalid if it does not contain a "description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification." (Code Civ. Proc. § 1240.230(b).) Here, the proposed resolution refers to the license as being "more particularly described in File No. 121090, including Exhibit A (the 'License') and as shown in Exhibit B (the 'Project Alignment'), on file with the Clerk of the Board of Supervisors, which is hereby declared to be a part of this resolution as if set forth fully herein." This description is insufficient because it purports to state that the interests being condemned extend beyond what is described in the two identified Exhibits. Moreover, documentation could be added to the file and thus create further ambiguity as to what is being condemned. Finally, the document identified in the resolution as "Exhibit A (the 'License')" does not provide any information as to when the grouting pipe installation or monitoring equipment will be installed or removed (if ever), when the access rights start or stop, or the extent of access permitted.

### **The City Did Not Make a Valid Section 7267.2 Offer Because the License Described in the Offer Is Materially Different From the License Described in the Proposed Resolution**

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that it has first made an offer to the property owner to acquire the property to be condemned. (Gov. Code § 7267.2(a)(1).) Here, the City presented an offer to the property owner in the form of a license agreement that included extensive terms governing such issues as when the grouting pipe installation and monitoring equipment will be installed and removed, when the access rights start and stop, and the extent of access permitted. The license described in Exhibit A to the resolution, by contrast, contains no such terms. Setting aside the fact that the offer presented in the license agreement was substantively objectionable (as discussed below), that offer was materially different from what is set forth in the resolution of necessity. The offer thus was invalid under Government Code section 7267.2.

### **With Respect to the License, the Project Has Not Been Planned or Located in a Manner That Will Be Most Compatible With the Greatest Public Good and Least Private Injury**

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that "the project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury." (Code Civ. Proc. § 1240.030(b).) The City's proposed license does not satisfy this requirement. The City characterizes the license as "temporary," yet the license set forth in Exhibit A to the resolution purports to be perpetual. More specifically:

- **Start Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no start date, thus effectively purporting to give the City an option in perpetuity to commence the work or access the property. By contrast, the license offered in the

Angela Calvillo  
December 11, 2012

Page 3

license agreement contained provisions (albeit objectionable provisions) concerning the start date, thus demonstrating that the City does not need a perpetual option to start the work.

• **Start Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would allow work and access to start at any time after issuance of a final Baseline Report concerning the condition of the property. Yet the license agreement does not provide a specific deadline for initiating the process for preparing the Baseline Report, or for the City to provide a draft Baseline Report to the property owner. Instead, the license agreement provides a deadline for completion of the work and the end of the term, but those deadlines are problematic as discussed below.

• **End Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no end date for the installation or removal work, or the access rights concerning the monitoring equipment. As such, the license thus would be the equivalent of an easement in perpetuity, and not a temporary license as the City claims. By contrast, the license offered in the license agreement contained provisions (albeit objectionable provisions) concerning the end date, thus demonstrating that the City does not need a perpetual easement.

• **End Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would be objectionable with respect to the work end date. It states that the installation of the grouting pipe installation and monitoring equipment shall be completed by December 31, 2015, with this date extended for "reasonably unavoidable delays." The license goes on to define "unavoidable delays" as including numerous occurrences that are outside of the City's control, such as labor disputes, inability to obtain labor or materials, federal or state governmental restrictions, and a catchall for "any other reason beyond City's reasonable control." But the provision concerning the work schedule sets **no outer limit** on how many months (or years) the license can be extended based on such occurrences. The potential for delay is a real concern, and not just a theoretical issue, given the scope of the Central Subway project, the myriad moving parts that must come together to complete the work that affects the subject property, and the dependence on state and federal funding. This imposes a significant burden on the property.

• **Term End Date / Installation Left in Place Under the License Agreement Proposed in the Offer:** Another problem with the license agreement offered by the City is that it expires on December 31, 2017, but the City would have an option to extend this date for up to two years. In other words, the license potentially would run through December 31, 2019, which is approximately seven years from now. And this assumes that the provision governing the expiration of the license supersedes the provision allowing the completion of the work to be delayed based on "reasonably unavoidable delays." At any rate, the license also provides that the City would have the right to abandon the grouting pipe installation in place. Given that this installation, along with any injected grouting material, will be deep underground, it will be impractical for the property owner to remove it, and it will remain in place indefinitely.

Angela Calvillo  
December 11, 2012

Page 4

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But the City has no need for such a taking, as reflected in the license agreement offered by the City. The City only needs a reasonably limited temporary construction license. Thus, by drafting the license so broadly, the City has not planned its project in a manner that will be most compatible with the greatest public good and **least private injury**.

**The City Has Failed to Make an Offer of Just Compensation  
Based on a Proper Appraisal of the Property**

The City must pay the property owner for the fair market value of the property taken. (Cal. Const., art. I, § 19; Code Civ. Proc. § 1263.310.) But the City's appraisal failed to acknowledge that the license proposed in Exhibit A to the resolution is **not temporary** (as discussed above), and failed to acknowledge the taking of several property rights that would entitle the property owner to additional compensation. Because of these defects in the appraisal, the City has not properly made an offer pursuant to Government Code section 7267.2 and cannot make a finding that it has. Thus, the City cannot properly adopt a resolution of necessity. Furthermore, because the evidence presented in these objections establishes that the City's appraisal is defective, the City must commission a new or updated appraisal and make a new offer before proceeding with a resolution of necessity. (See 25 Cal. Code Reg. § 6182(i)(2).) More specifically:

- **The Property Owner Is Entitled to the Full Value of the Area Designated for the Construction:** The City must compensate the property owner for the "most injurious use" of the proposed taking under the language of its resolution of necessity. (*County of San Diego v. Bressi* (1986) 184 Cal.App.3d 112, 123.) Here, the City drafted the license described in Exhibit A to the resolution as having an open-ended start date, no end date, and potentially perpetual access to the property. This is the practical equivalent of taking an easement (as discussed above). But the City instead appraised the license as a "temporary" construction license, and the City made its offer accordingly. The City thus has **not** made a Government Code section 7267.2 offer.
- **The Property Owner Is Entitled to Temporary Severance Damages for the Period of Construction:** The City's appraisal misses the substantial severance damages to the remainder of the property, concluding that there is "nominal impact on the utility of the Site Area, since it will continue to provide essentially all its functions without deficiency as a result of the project." There is no basis for this statement. Setting aside the damage the taking will permanently cause to the property, the damage during the construction period alone will be significant. The construction will generate noise, dust, and fumes that will damage the property. This is compensable. (See *Pierpont Inn, Inc. v. State of California* (1969) 70 Cal.2d 282.) Furthermore,



Angela Calvillo  
December 11, 2012

Page 5

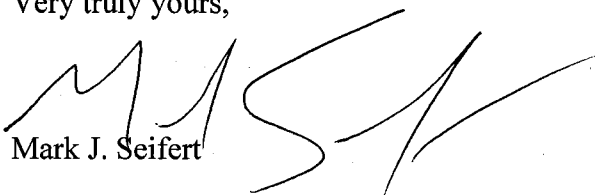
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- **The Property Owner Is Also Entitled to Permanent Severance Damages:** In addition to the damages that will occur to the property during construction, the City's proposed taking will, as a practical matter, result in permanent severance damages to the property. After the completion of the Central Subway project, access to the property will be impaired. Pedestrian and public transit traffic on the surface of Stockton Street will be diverted underground, notwithstanding the fact that this is a highly popular retail corridor that depends on its visibility and accessibility to surface traffic. The property owner is thus entitled to severance damages for the loss of access to its property. (*City of Livermore v. Baca* (2012) 205 Cal.App.4th 1460, 1468, 1472; *Pierpont Inn, Inc. v. State of California* (1969) 70 Cal.2d 282, 295.) Each of these damages must be considered in the City's appraisal and included in the City's offer of compensation.

### CONCLUSION

For the reasons set forth in this letter, the Board of Supervisors cannot validly adopt the proposed resolution of necessity to acquire the subject license. Therefore, the property owner requests that the Board of Supervisors not proceed with the hearing on the proposed resolution or, if it proceeds, that it reject the defective resolution. Indeed, the City has shown little urgency in completing the license negotiations, as reflected by the significant delay in providing geotechnical information needed to evaluate the license agreement offered by the City, and further delay in responding to comments on the license agreement (which comments were provided on October 22, 2012 but have yet to be addressed). Accordingly, it would be prudent for the board of Supervisors, at a minimum, to postpone consideration of the license pending further negotiations. Finally, the property owner requests that the City have a new appraisal completed that corrects the valuation defects outlined in these objections so the City can make a proper Government Code section 7267.2 offer.

Very truly yours,

  
Mark J. Seifert

Bos-11, cpage

# Allen Matkins

## Facsimile

File 121094

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law  
www.allenmatkins.com

**To: Angela Calvillo**  
Clerk of the Board of Supervisors  
City Hall, Room 244  
Fax: 415.554.5163 | Phone: 415.554.5184

**From: Mark J. Seifert**

Date: December 11, 2012

Telephone: 415.273.7433

E-mail: mseifert@allenmatkins.com

File Number: 371836-00002/SF868192.01

Total pages including cover sheet: 06

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2012 DEC 11 PM 1:09

**Re: December 11, 2012 Hearing to Consider Property Acquisition by Eminent Domain of a Construction License for the Central Subway / Third Street Light Rail Extension at 212 Stockton Street – Objections to the Proposed Resolution of Necessity (File No. 121094)**

### Comments:

Please see attached correspondence.

Original will:  be sent via mail  be sent via messenger  be sent via fedex/courier  be sent via email  not be sent

*Note: The information contained in this facsimile document is confidential and is intended only for the use of the individual named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original document to us at the above address via U.S. Mail. We will reimburse you for the postage. Thank you.*

# Allen Matkins

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E-mail: mscifert@allenmatkins.com  
Direct Dial: 415.273.7433 File Number: 371836-00002/SF868123.01

## Via Messenger and Facsimile

December 11, 2012

Angela Calvillo  
Clerk of the Board of Supervisors  
City Hall, Room 244  
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San Francisco, CA 94102

**Re: December 11, 2012 Hearing to Consider Property Acquisition by  
Eminent Domain of a Construction License for the Central Subway /  
Third Street Light Rail Extension at 212 Stockton Street --  
Objections to the Proposed Resolution of Necessity (File No. 121094)**

Dear Ms. Calvillo:

This firm represents Deka USA Stockton LP, the owner of the property commonly known as 1 Stockton Street in San Francisco, California. Said property is the subject of a proposed resolution scheduled to be considered by the Board of Supervisors of the City and County of San Francisco ("City") at a hearing held pursuant to the *Notice of Public Hearing to Consider Property Acquisition – Eminent Domain, Interest in Real Property: A Temporary Construction License at the Real Property Commonly Known as 212 Stockton Street, San Francisco, California, Assessor's Parcel Block No. 0309, Lot No. 011, for the Public Purpose of Constructing the Central Subway / Third Street Light Rail Extension and Other Improvements* ("Notice of Public Hearing"). The file number assigned to this particular property is File No. 121094. The Board of Supervisors proposes to hold that hearing on Tuesday, December 11, 2012, at 3:00 p.m.

The purpose of this letter is to detail Deka USA Union Square LP's objections to the City's adoption of the proposed resolution of necessity. We request that copies of this objection letter be distributed to each of the members of the Board of Supervisors prior to their consideration of the proposed resolution. Deka USA Union Square LP reserves the right to make further and different objections before and at the hearing.

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law

Angela Calvillo  
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## OBJECTIONS

### The License Does Not Describe the Extent of the Property to Be Taken With Sufficient Detail for Reasonable Identification

A resolution of necessity is invalid if it does not contain a "description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification." (Code Civ. Proc. § 1240.230(b).) Here, the proposed resolution refers to the license as being "more particularly described in File No. 121094, including Exhibit A (the 'License') and as shown in Exhibit B (the 'Project Alignment'), on file with the Clerk of the Board of Supervisors, which is hereby declared to be a part of this resolution as if set forth fully herein." This description is insufficient because it purports to state that the interests being condemned extend beyond what is described in the two identified Exhibits. Moreover, documentation could be added to the file and thus create further ambiguity as to what is being condemned. Finally, the document identified in the resolution as "Exhibit A (the 'License')" does not provide any information as to when the grouting pipe installation or monitoring equipment will be installed or removed (if ever), when the access rights start or stop, or the extent of access permitted.

### The City Did Not Make a Valid Section 7267.2 Offer Because the License Described in the Offer Is Materially Different From the License Described in the Proposed Resolution

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that it has first made an offer to the property owner to acquire the property to be condemned. (Gov. Code § 7267.2(a)(1).) Here, the City presented an offer to the property owner in the form of a license agreement that included extensive terms governing such issues as when the grouting pipe installation and monitoring equipment will be installed and removed, when the access rights start and stop, and the extent of access permitted. The license described in Exhibit A to the resolution, by contrast, contains no such terms. Setting aside the fact that the offer presented in the license agreement was substantively objectionable (as discussed below), that offer was materially different from what is set forth in the resolution of necessity. The offer thus was invalid under Government Code section 7267.2.

### With Respect to the License, the Project Has Not Been Planned or Located in a Manner That Will Be Most Compatible With the Greatest Public Good and Least Private Injury

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that "the project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury." (Code Civ. Proc. § 1240.030(b).) The City's proposed license does not satisfy this requirement. The City characterizes the license as "temporary," yet the license set forth in Exhibit A to the resolution purports to be perpetual. More specifically:

- **Start Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no start date, thus effectively purporting to give the City an option in perpetuity to commence the work or access the property. By contrast, the license offered in the

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law

Angela Calvillo  
December 11, 2012

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license agreement contained provisions (albeit objectionable provisions) concerning the start date, thus demonstrating that the City does not need a perpetual option to start the work.

- **Start Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would allow work and access to start at any time after issuance of a final Baseline Report concerning the condition of the property. Yet the license agreement does not provide a specific deadline for initiating the process for preparing the Baseline Report, or for the City to provide a draft Baseline Report to the property owner. Instead, the license agreement provides a deadline for completion of the work and the end of the term, but those deadlines are problematic as discussed below.

- **End Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no end date for the installation or removal work, or the access rights concerning the monitoring equipment. As such, the license thus would be the equivalent of an easement in perpetuity, and not a temporary license as the City claims. By contrast, the license offered in the license agreement contained provisions (albeit objectionable provisions) concerning the end date, thus demonstrating that the City does not need a perpetual easement.

- **End Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would be objectionable with respect to the work end date. It states that the installation of the grouting pipe installation and monitoring equipment shall be completed by December 31, 2015, with this date extended for "reasonably unavoidable delays." The license goes on to define "unavoidable delays" as including numerous occurrences that are outside of the City's control, such as labor disputes, inability to obtain labor or materials, federal or state governmental restrictions, and a catchall for "any other reason beyond City's reasonable control." But the provision concerning the work schedule sets no outer limit on how many months (or years) the license can be extended based on such occurrences. The potential for delay is a real concern, and not just a theoretical issue, given the scope of the Central Subway project, the myriad moving parts that must come together to complete the work that affects the subject property, and the dependence on state and federal funding. This imposes a significant burden on the property.

- **Term End Date / Installation Left in Place Under the License Agreement Proposed in the Offer:** Another problem with the license agreement offered by the City is that it expires on December 31, 2017, but the City would have an option to extend this date for up to two years. In other words, the license potentially would run through December 31, 2019, which is approximately seven years from now. And this assumes that the provision governing the expiration of the license supersedes the provision allowing the completion of the work to be delayed based on "reasonably unavoidable delays." At any rate, the license also provides that the City would have the right to abandon the grouting pipe installation in place. Given that this installation, along with any injected grouting material, will be deep underground, it will be impractical for the property owner to remove it, and it will remain in place indefinitely.

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law

Angela Calvillo  
December 11, 2012

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Because the purportedly "temporary" license set forth in Exhibit A to the resolution is unlimited in time, it is the practical equivalent of an easement taking with respect to the grouting pipe and monitoring equipment installation, as well as access to the monitoring equipment. This is particularly true considering that the takings analysis must assume the "most injurious use" of the property possible under the resolution's language. (See *County of San Diego v. Bressi* (1986) 184 Cal.App.3d 112, 123.)

But the City has no need for such a taking, as reflected in the license agreement offered by the City. The City only needs a reasonably limited temporary construction license. Thus, by drafting the license so broadly, the City has not planned its project in a manner that will be most compatible with the greatest public good and least private injury.

**The City Has Failed to Make an Offer of Just Compensation  
Based on a Proper Appraisal of the Property**

The City must pay the property owner for the fair market value of the property taken. (Cal. Const., art. I, § 19; Code Civ. Proc. § 1263.310.) But the City's appraisal failed to acknowledge that the license proposed in Exhibit A to the resolution is **not temporary** (as discussed above), and failed to acknowledge the taking of several property rights that would entitle the property owner to additional compensation. Because of these defects in the appraisal, the City has not properly made an offer pursuant to Government Code section 7267.2 and cannot make a finding that it has. Thus, the City cannot properly adopt a resolution of necessity. Furthermore, because the evidence presented in these objections establishes that the City's appraisal is defective, the City must commission a new or updated appraisal and make a new offer before proceeding with a resolution of necessity. (See 25 Cal. Code Reg. § 6182(i)(2).) More specifically:

- **The Property Owner Is Entitled to the Full Value of the Area Designated for the Construction:** The City must compensate the property owner for the "most injurious use" of the proposed taking under the language of its resolution of necessity. (*County of San Diego v. Bressi* (1986) 184 Cal.App.3d 112, 123.) Here, the City drafted the license described in Exhibit A to the resolution as having an open-ended start date, no end date, and potentially perpetual access to the property. This is the practical equivalent of taking an easement (as discussed above). But the City instead appraised the license as a "temporary" construction license, and the City made its offer accordingly. The City thus has **not** made a Government Code section 7267.2 offer.
- **The Property Owner Is Entitled to Temporary Severance Damages for the Period of Construction:** The City's appraisal misses the substantial severance damages to the remainder of the property, concluding that there is "nominal impact on the utility of the Site Area, since it will continue to provide essentially all its functions without deficiency as a result of the project." There is no basis for this statement. Setting aside the damage the taking will permanently cause to the property, the damage during the construction period alone will be significant. The construction will generate noise, dust, and fumes that will damage the property. This is compensable. (See *Pierpont Inn, Inc. v. State of California* (1969) 70 Cal.2d 282.) Furthermore,

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law

Angela Calvillo  
December 11, 2012

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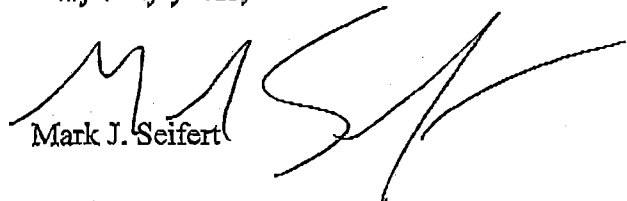
during construction, access to the property will be impaired as a result of the various traffic detours required for the City to complete construction. In addition, the City's appraisal fails to assign any value to the monitoring equipment component of the license, yet the license itself would allow for interference with use of the property in that the equipment would remain installed at the property and the City would have rights to enter the property to access that equipment. Since the City's appraisal failed to account for these severance damages, the City has not made a proper Government Code section 7267.2 offer.

- **The Property Owner Is Also Entitled to Permanent Severance Damages:** In addition to the damages that will occur to the property during construction, the City's proposed taking will, as a practical matter, result in permanent severance damages to the property. After the completion of the Central Subway project, access to the property will be impaired. Pedestrian and public transit traffic on the surface of Stockton Street will be diverted underground, notwithstanding the fact that this is a highly popular retail corridor that depends on its visibility and accessibility to surface traffic. The property owner is thus entitled to severance damages for the loss of access to its property. (*City of Livermore v. Baca* (2012) 205 Cal.App.4th 1460, 1468, 1472; *Pierpont Inn, Inc. v. State of California* (1969) 70 Cal.2d 282, 295.) Each of these damages must be considered in the City's appraisal and included in the City's offer of compensation.

### CONCLUSION

For the reasons set forth in this letter, the Board of Supervisors cannot validly adopt the proposed resolution of necessity to acquire the subject license. Therefore, the property owner requests that the Board of Supervisors not proceed with the hearing on the proposed resolution or, if it proceeds, that it reject the defective resolution. Indeed, the City has shown little urgency in completing the license negotiations, as reflected by the significant delay in providing geotechnical information needed to evaluate the license agreement offered by the City, and further delay in responding to comments on the license agreement (which comments were provided on October 22, 2012 but have yet to be addressed). Accordingly, it would be prudent for the board of Supervisors, at a minimum, to postpone consideration of the license pending further negotiations. Finally, the property owner requests that the City have a new appraisal completed that corrects the valuation defects outlined in these objections so the City can make a proper Government Code section 7267.2 offer.

Very truly yours,

  
Mark J. Seifert

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Mark J. Seifert  
E-mail: mseifert@allenmatkins.com  
Direct Dial: 415.273.7433 File Number: 371836-00002/SF868123.01

**Via Messenger and Facsimile**

December 11, 2012

Angela Calvillo  
Clerk of the Board of Supervisors  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: December 11, 2012 Hearing to Consider Property Acquisition by  
Eminent Domain of a Construction License for the Central Subway /  
Third Street Light Rail Extension at 212 Stockton Street --  
Objections to the Proposed Resolution of Necessity (File No. 121094)**

Dear Ms. Calvillo:

This firm represents Deka USA Stockton LP, the owner of the property commonly known as 1 Stockton Street in San Francisco, California. Said property is the subject of a proposed resolution scheduled to be considered by the Board of Supervisors of the City and County of San Francisco ("City") at a hearing held pursuant to the *Notice of Public Hearing to Consider Property Acquisition – Eminent Domain, Interest in Real Property: A Temporary Construction License at the Real Property Commonly Known as 212 Stockton Street, San Francisco, California, Assessor's Parcel Block No. 0309, Lot No. 011, for the Public Purpose of Constructing the Central Subway / Third Street Light Rail Extension and Other Improvements* ("Notice of Public Hearing"). The file number assigned to this particular property is File No. 121094. The Board of Supervisors proposes to hold that hearing on Tuesday, December 11, 2012, at 3:00 p.m.

The purpose of this letter is to detail Deka USA Union Square LP's objections to the City's adoption of the proposed resolution of necessity. We request that copies of this objection letter be distributed to each of the members of the Board of Supervisors prior to their consideration of the proposed resolution. Deka USA Union Square LP reserves the right to make further and different objections before and at the hearing.



## **OBJECTIONS**

### **The License Does Not Describe the Extent of the Property to Be Taken With Sufficient Detail for Reasonable Identification**

A resolution of necessity is invalid if it does not contain a "description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification." (Code Civ. Proc. § 1240.230(b).) Here, the proposed resolution refers to the license as being "more particularly described in File No. 121094, including Exhibit A (the 'License') and as shown in Exhibit B (the 'Project Alignment'), on file with the Clerk of the Board of Supervisors, which is hereby declared to be a part of this resolution as if set forth fully herein." This description is insufficient because it purports to state that the interests being condemned extend beyond what is described in the two identified Exhibits. Moreover, documentation could be added to the file and thus create further ambiguity as to what is being condemned. Finally, the document identified in the resolution as "Exhibit A (the 'License')" does not provide any information as to when the grouting pipe installation or monitoring equipment will be installed or removed (if ever), when the access rights start or stop, or the extent of access permitted.

### **The City Did Not Make a Valid Section 7267.2 Offer Because the License Described in the Offer Is Materially Different From the License Described in the Proposed Resolution**

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that it has first made an offer to the property owner to acquire the property to be condemned. (Gov. Code § 7267.2(a)(1).) Here, the City presented an offer to the property owner in the form of a license agreement that included extensive terms governing such issues as when the grouting pipe installation and monitoring equipment will be installed and removed, when the access rights start and stop, and the extent of access permitted. The license described in Exhibit A to the resolution, by contrast, contains no such terms. Setting aside the fact that the offer presented in the license agreement was substantively objectionable (as discussed below), that offer was materially different from what is set forth in the resolution of necessity. The offer thus was invalid under Government Code section 7267.2.

### **With Respect to the License, the Project Has Not Been Planned or Located in a Manner That Will Be Most Compatible With the Greatest Public Good and Least Private Injury**

A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that "the project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury." (Code Civ. Proc. § 1240.030(b).) The City's proposed license does not satisfy this requirement. The City characterizes the license as "temporary," yet the license set forth in Exhibit A to the resolution purports to be perpetual. More specifically:

- **Start Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no start date, thus effectively purporting to give the City an option in perpetuity to commence the work or access the property. By contrast, the license offered in the

Angela Calvillo  
December 11, 2012

Page 3

license agreement contained provisions (albeit objectionable provisions) concerning the start date, thus demonstrating that the City does not need a perpetual option to start the work.

• **Start Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would allow work and access to start at any time after issuance of a final Baseline Report concerning the condition of the property. Yet the license agreement does not provide a specific deadline for initiating the process for preparing the Baseline Report, or for the City to provide a draft Baseline Report to the property owner. Instead, the license agreement provides a deadline for completion of the work and the end of the term, but those deadlines are problematic as discussed below.

• **End Date Under the License Proposed in Exhibit A to the Resolution:** The license set forth in Exhibit A contains no end date for the installation or removal work, or the access rights concerning the monitoring equipment. As such, the license thus would be the equivalent of an easement in perpetuity, and not a temporary license as the City claims. By contrast, the license offered in the license agreement contained provisions (albeit objectionable provisions) concerning the end date, thus demonstrating that the City does not need a perpetual easement.

• **End Date Under the License Agreement Proposed in the Offer:** Even if the license were limited by the terms in the license agreement offered by the City, that license would be objectionable with respect to the work end date. It states that the installation of the grouting pipe installation and monitoring equipment shall be completed by December 31, 2015, with this date extended for "reasonably unavoidable delays." The license goes on to define "unavoidable delays" as including numerous occurrences that are outside of the City's control, such as labor disputes, inability to obtain labor or materials, federal or state governmental restrictions, and a catchall for "any other reason beyond City's reasonable control." But the provision concerning the work schedule sets **no outer limit** on how many months (or years) the license can be extended based on such occurrences. The potential for delay is a real concern, and not just a theoretical issue, given the scope of the Central Subway project, the myriad moving parts that must come together to complete the work that affects the subject property, and the dependence on state and federal funding. This imposes a significant burden on the property.

• **Term End Date / Installation Left in Place Under the License Agreement Proposed in the Offer:** Another problem with the license agreement offered by the City is that it expires on December 31, 2017, but the City would have an option to extend this date for up to two years. In other words, the license potentially would run through December 31, 2019, which is approximately seven years from now. And this assumes that the provision governing the expiration of the license supersedes the provision allowing the completion of the work to be delayed based on "reasonably unavoidable delays." At any rate, the license also provides that the City would have the right to abandon the grouting pipe installation in place. Given that this installation, along with any injected grouting material, will be deep underground, it will be impractical for the property owner to remove it, and it will remain in place indefinitely.

Because the purportedly "temporary" license set forth in Exhibit A to the resolution is unlimited in time, it is the practical equivalent of an easement taking with respect to the grouting pipe and monitoring equipment installation, as well as access to the monitoring equipment. This is particularly true considering that the takings analysis must assume the "most injurious use" of the property possible under the resolution's language. (See *County of San Diego v. Bressi* (1986) 184 Cal.App.3d 112, 123.)

But the City has no need for such a taking, as reflected in the license agreement offered by the City. The City only needs a reasonably limited temporary construction license. Thus, by drafting the license so broadly, the City has not planned its project in a manner that will be most compatible with the greatest public good and **least private injury**.

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Based on a Proper Appraisal of the Property**

The City must pay the property owner for the fair market value of the property taken. (Cal. Const., art. I, § 19; Code Civ. Proc. § 1263.310.) But the City's appraisal failed to acknowledge that the license proposed in Exhibit A to the resolution is **not temporary** (as discussed above), and failed to acknowledge the taking of several property rights that would entitle the property owner to additional compensation. Because of these defects in the appraisal, the City has not properly made an offer pursuant to Government Code section 7267.2 and cannot make a finding that it has. Thus, the City cannot properly adopt a resolution of necessity. Furthermore, because the evidence presented in these objections establishes that the City's appraisal is defective, the City must commission a new or updated appraisal and make a new offer before proceeding with a resolution of necessity. (See 25 Cal. Code Reg. § 6182(i)(2).) More specifically:

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Angela Calvillo  
December 11, 2012

Page 5


during construction, access to the property will be impaired as a result of the various traffic detours required for the City to complete construction. In addition, the City's appraisal fails to assign any value to the monitoring equipment component of the license, yet the license itself would allow for interference with use of the property in that the equipment would remain installed at the property and the City would have rights to enter the property to access that equipment. Since the City's appraisal failed to account for these severance damages, the City has not made a proper Government Code section 7267.2 offer.

- **The Property Owner Is Also Entitled to Permanent Severance Damages:** In addition to the damages that will occur to the property during construction, the City's proposed taking will, as a practical matter, result in permanent severance damages to the property. After the completion of the Central Subway project, access to the property will be impaired. Pedestrian and public transit traffic on the surface of Stockton Street will be diverted underground, notwithstanding the fact that this is a highly popular retail corridor that depends on its visibility and accessibility to surface traffic. The property owner is thus entitled to severance damages for the loss of access to its property. (*City of Livermore v. Baca* (2012) 205 Cal.App.4th 1460, 1468, 1472; *Pierpont Inn, Inc. v. State of California* (1969) 70 Cal.2d 282, 295.) Each of these damages must be considered in the City's appraisal and included in the City's offer of compensation.

### CONCLUSION

For the reasons set forth in this letter, the Board of Supervisors cannot validly adopt the proposed resolution of necessity to acquire the subject license. Therefore, the property owner requests that the Board of Supervisors not proceed with the hearing on the proposed resolution or, if it proceeds, that it reject the defective resolution. Indeed, the City has shown little urgency in completing the license negotiations, as reflected by the significant delay in providing geotechnical information needed to evaluate the license agreement offered by the City, and further delay in responding to comments on the license agreement (which comments were provided on October 22, 2012 but have yet to be addressed). Accordingly, it would be prudent for the board of Supervisors, at a minimum, to postpone consideration of the license pending further negotiations. Finally, the property owner requests that the City have a new appraisal completed that corrects the valuation defects outlined in these objections so the City can make a proper Government Code section 7267.2 offer.

Very truly yours,

  
Mark J. Seifert

**Nevin, Peggy**

---

**From:** Board of Supervisors  
**To:** Miller, Alisa  
**Subject:** Board of Supervisors File # 121183 – Proposed Ordinance approving permit for 8 Washington Project

-----Original Message-----

**From:** [jongolinger@gmail.com](mailto:jongolinger@gmail.com) [<mailto:jongolinger@gmail.com>] On Behalf Of Waterfront  
**Sent:** Tuesday, December 11, 2012 8:34 AM  
**To:** Chiu, David  
**Subject:** Board of Supervisors File # 121183 – Proposed Ordinance approving permit for 8 Washington Project

Tuesday, December 11, 2012

The Honorable David Chiu  
President, San Francisco Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Delivered via email to [David.Chiu@sfgov.org](mailto:David.Chiu@sfgov.org)

**Re:** File # 121183 – Proposed Ordinance approving permit for 8 Washington Project

Dear President Chiu:

I write on behalf of No Wall on the Waterfront, a citywide coalition of environmental, neighborhood, tenant, and civic groups, to express our deep concern with the newly proposed ordinance by the Port of San Francisco entitled “8 Washington – Encroachment, Public Service Easements and Vacations, Infrastructure” which is listed at the bottom of the Board’s December 11 Agenda.

The ordinance proposed by the Port asks the Board to grant “permission to Developer [Simon Snellgrove] to occupy a portion of the public rights-of-way consisting of the Open Space Parcel and portions of Drumm, Washington, and the Embarcadero” in order to begin constructing a portion of the proposed 8 Washington High-Rise Condo Project. That this is being proposed by the Port in defiance of the tens of thousands of San Franciscans who signed petitions this

summer to suspend the city's approval of the huge waterfront height increase for the 8 Washington "Wall on the Waterfront" Project is an audacious attempt at an end-run around the will of the voters.

In light of the investigation by the City Attorney's office that is already underway to determine whether Port officials have violated the law by expending city resources to influence the vote on the upcoming 8 Washington/Wall on the Waterfront Referendum, we are appalled at what appears to be a systematic attempt by the Port to undercut the will of the voters of San Francisco before they have even had the chance to cast a single ballot.

As you are aware, on August 1, 2012 the Director of the San Francisco Department of Elections certified that enough of the 31,371 petition signatures submitted by our coalition in July were valid to qualify the first voter referendum in over 20 years for the San Francisco ballot. Under the California Constitution, state, and municipal law, the effect of the qualification of a voter referendum is to prohibit the Board's earlier approval of an ordinance from taking effect until such time that the referendum is either approved or rejected by the voters.

The 8 Washington Referendum suspended Ordinance Number 104-12, which was approved by the Board in June. This ordinance attempts to amend the City and County of San Francisco's zoning map by "upzoning" a portion of the waterfront from 84 feet up to 92 feet in one area and 136 feet in another area in order to enable the developer to build a luxury condo tower on the 8 Washington site. In addition, the ordinance makes a series of 9 official findings and determinations regarding the 8 Washington Project, including the affirmation and adoption of environmental and CEQA findings, Planning Code findings, and findings of consistency with the General Plan of the City and County of San Francisco.

As a result of vigorous lobbying this spring by the project developer in an effort to make the ordinance more lengthy and therefore more difficult to challenge by referendum, the Board expanded Ordinance Number 104-12 to include not just the height increase but also an array of environmental findings and dozens of documents "incorporated by reference." This meant that the referendum petition we were required to circulate this summer - and 31,371 voters signed - was a massive 520 pages in length. The result is that every effective aspect of the ordinance and all operative language in the 520 pages of documents were suspended by the qualification of the referendum until after the election has been decided.

Therefore, it would be entirely improper for the city to move forward with the expenditure of any public funds or more approvals of any kind for the 8 Washington Project until the people of San Francisco have cast their votes on the referendum at the November 5, 2013 election as required by the California Constitution, state and local law.

Sincerely,

Jon Golinger

Campaign Director

No Wall on the Waterfront

[www.NoWallOnTheWaterfront.com](http://www.NoWallOnTheWaterfront.com) <<http://www.NoWallOnTheWaterfront.com>>

Cc: All Members, San Francisco Board of Supervisors

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**COMMISSIONERS**  
**Daniel W. Richards, President**  
 Upland  
**Michael Sutton, Vice President**  
 Monterey  
**Jim Kellogg, Member**  
 Discovery Bay  
**Richard Rogers, Member**  
 Santa Barbara  
**Jack Baylis, Member**  
 Los Angeles

**EDMUND G. BROWN, JR.**



Governor

STATE OF CALIFORNIA

## Fish and Game Commission

Sonke Mastrup  
 EXECUTIVE DIRECTOR  
 1416 Ninth Street  
 Box 941209  
 Sacramento, CA 95824-2099  
 (916) 653-7899  
 (916) 653-5040 Fax  
 fgc@fgc.ca.gov

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December 14, 2012

This is to provide you with a copy of the notice of proposed regulatory action relative to Amending Section 670; and Repealing Section 678, Title 14, California Code of Regulations, relating to the Practice of Falconry, which are published in the California Regulatory Notice Register on December 14, 2012.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov).

**Ms. Nicole Carion, Department of Fish and Game, phone (916) 445-0826, has been designated to respond to questions on the substance of the proposed regulations.**

Sincerely,

Jon D. Snellstrom  
 Associate Governmental Program Analyst

Attachment



**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 203, 355, 356, 395, 396, 398, 710.5, 710.7, 713, 1050, 1530, 1583, 1802, 3007, 3031, 3039, 3503, 3503.5, 3511, 3513, 3800, 3801.6, 3950, 4150, 10500 and reference 395, 396, 713, 1050, 3007, 3031, 3503, 3503.5, 3511, 3513, 3801.6. Fish and Game Code; as well as Parts 21.29 and 21.30 of Title 50, Code of Federal Regulations (CFR); proposes to Amend Section 670 and Repeal Section 678, Title 14, California Code of Regulations (CCR), relating to Practice of Falconry Regulations.

**INFORMATIVE DIGEST**

Regulations for the practice of falconry are contained in Section 670, Title 14, CCR (14 CCR 670) along with federal regulations in Section 21, Title 50, CFR (50 CFR 21). These guide the practice of falconry within the state and establish the methods and limits for capture of raptors from the wild for falconry use. Under these regulatory sections, the Department of Fish and Game (Department) issues a license, with certain restrictions and conditions, for the capture, possession and use of wild, captive-bred, or hybrid raptors for the purpose of falconry.

In July 2009, the U.S. Fish and Wildlife Service (Service) revised 50 CFR 21.28 and 21.29 to remove federal permitting for falconry. 50 CFR 21.29(b) now requires that before falconry may be practiced in any state, that state must approve the practice by issuing permits under its own laws and regulations and must submit copies of its regulations pertaining to falconry, including falconry permit requirements, to the Service. The state must develop falconry regulations that meet the federal standards established under 50 CFR 21.29. Certification of state regulations must be published in the Federal Register no later than January 1, 2014, at which point the federal permitting program will end and individual states will not be allowed to practice falconry if their regulations have not been approved and certified by the Service. State laws are allowed to be more restrictive than federal standards, but not more permissive.

The regulations, which include proof that the database linkage between the Service and the Department's database is in place, must be submitted to the Service by September 1, 2013.

The Department is proposing that the Commission amend 14 CCR 670 to meet the federal requirements; specifically, to comply with 50 CFR 21.29 by establishing and maintaining a permitting program. Much of California's current falconry regulation language is being modified to some extent. Many changes being proposed are to comply with federal regulation. Some new revisions to 14 CCR 670 are being proposed to the Fish and Game Commission based on input received from the public, as well as the latest scientific information available on the status of the species affected by the practice of falconry and the health of local populations.

The Department is proposing that the Commission repeal 14 CCR 678 to re-organize and simplify the reading of regulations regarding captive propagation. The language from Section 678 would be covered in new Section 670 regulations.

Under existing falconry regulations (14 CCR 670), falconers are allowed to practice falconry in California according to the following specifications:

- General provisions are provided specifying falconry shall abide by Fish and Game Code, Department regulations, federal MBTA, and federal falconry regulations. These laws and regulations can be sent upon request.
- Take of game or nongame animals shall abide by all state hunting laws and regulations.

- Protected animals inadvertently killed by falconry raptors should be removed from the raptor and left on site.
- The Department provides information on the application process. Experience acquired elsewhere is considered during the application process. Persons under 18 require a parent or guardian signature on application.
- Forms FG362 (Rev 9/95), FG363 (Rev 9/95), FG364 (Rev 1/96), and FG364a (Rev (1/96) are referenced.
- Prior to issuance of a license, applicants must take an examination and score 80% or better. Applicants who fail the exam may take it again after 3 months have passed since the last attempt. Applicants with passing scores from another state with federal approval do not have to take the exam in California.
- Classes of licenses are apprentice, general and master.
- The Department may suspend, revoke, or deny issuance or renewal of any falconry license under specified conditions. Licensees may appeal such actions.
- A sponsor must notify the Department upon termination of sponsorship. An Apprentice shall acquire a new sponsor within 60 days.
- Apprentice falconers must submit an annual report on their activities. The report must be signed and dated by the sponsor.
- Prior to issuance of a license, all housing facilities and equipment must be inspected and approved. The Department may authorize sponsors to conduct inspections. The Department may enter the premises of any licensee at any reasonable hour to inspect facilities and equipment.
- Nonresidents may practice falconry in California according to their federal permit.
- Temporary transfer of falconry raptors is allowed according to federal regulation and must be reported to the Service.
- Apprentice falconers may only capture and possess kestrels and red-tailed hawks.
- Raptors may be acquired from wildlife rehabilitation facilities.
- Raptors may be imported with proper documentation and required permits.
- Infertile eggs may be possessed with written notification to the Department.
- Bands may not be removed from raptors, except by a Department employee or person authorized by Department. Bands may not be defaced, altered, or counterfeited. Lost or removed bands must be reported to the Service.
- Only persons with a valid falconry license can remove birds from the wild. Nonresidents may apply to capture a wild raptor and must report to the Department whether successful at capture or not.
- Capture from the wild must be reported within 5 days, and include county of capture and a description of the capture site, and Township, Range, and Section of capture site. A copy of a topographic map, with the capture site clearly indicated, is required for all species except great horned owl, kestrel and red-tailed hawk.
- Raptors that may be captured from the wild include Northern goshawk, Cooper's hawk, sharp-shinned hawk, red-tailed hawk, ferruginous hawk, merlin, American kestrel, prairie falcon and great horned owl.
- Northern goshawks may not be captured from the wild at any time in the Lake Tahoe Basin.
- Eya birds may only be captured by General or Master Falconers and only from May 20 to July 15. At least one eyas bird must be left in the nest. Passage birds may only be captured October 1 to January 31.
- Any marked raptor that was lost or escaped can be captured anytime.
- Replacement period is defined as the 12 month period beginning March 1 of each year.

The Department is proposing to amend 14 CCR 670 to meet the federal requirements; specifically, to comply with establishing and maintaining a permitting program. Much of California's current falconry regulation language is being modified to some extent. Many

changes are being proposed to comply with federal regulation. Some new revisions to 14 CCR 670 are being proposed based on comments received during public review, expertise within the Department, as well as the latest scientific information available on the status of the species affected by the practice of falconry and the health of local populations.

The proposed regulatory changes will meet the federal requirements and assist the Department in responsibly implementing a falconry program in California.

The following is a summary of the changes proposed for Section 670, Title 14, CCR:

- Definitions of terms would be included in the regulations to clarify meaning and purpose of these the terms within regulation.
- Falconers would be required to ensure take of state- and federally-listed threatened and endangered species is minimized by not flying raptors near listed species, and will be required to report take of listed species to the nearest Department regional offices or Service office within 10 calendar days of the incident. If listed species are injured during the practice of falconry, the falconer would be required to notify the Department and the Service, and transport an injured animal to a wildlife rehabilitation facility.
- To clarify the application process, new regulations would describe how to apply for a falconry license. The process of obtaining a license for falconers from another state who wish to establish permanent residency in California is also clarified.
- Regulations would allow the Department to recognize a valid falconry license from another state during the application process for a California falconry license.
- Licensees would be required to report acquisitions, releases, transfer, loss, escape, and death of a falconry raptor to this electronic database in addition to reporting to the Department. Information about the county of capture/release, date of capture/release, a description of the capture/release site, description of the capture method, species information (e.g. age, sex), and Latitude/Longitude coordinates or capture/release site would be a requirement to report to the Department. The topographic map that was required for some species in current regulation would be eliminated. Reporting would be required within 10 days of any event. Additionally, Law Enforcement Officers would also need to be notified in the case of theft.
- New licensees would be required to sign a statement stating they are familiar with both federal and state regulations, as well as MBTA, that information submitted is complete and accurate, and that any false statement is subject to cancellation and criminal penalties.
- The application and licensing process would be clarified for residents and nonresidents wishing to obtain a new license in California, renew a current license, or renew a lapsed license.
- New regulations would allow nonresident falconers or non-U.S. citizen falconers to temporarily practice falconry in California and would require them to either maintain temporary housing facilities or utilize a license falconer's facilities.
- The ability for the Department to deny, suspend, or revoke a falconry license would be defined. Instructions for the licensee would also be added on how to appeal such action.
- Current falconry forms would be revised, and new ones developed as a means to implement the state-run falconry program.
- Falconry forms would be referenced. Current forms (FG362 (Rev 9/95), FG363 (Rev 9/95), FG364 (Rev 1/96), and FG364a (Rev (1/96))) would be revised and renamed. Five new forms (FG360b, FG360, FG360h, FG360d, and FG360i) would be developed. Capture seasons would be eliminated and therefore would not be referred to in forms. Reporting requirements would be adjusted; therefore falconers would no longer report topographic map, Township, Range, Section, or UTM's of capture site location. Instead, Latitude, Longitude, site description, and capture methods would be described.

Apprentice falconers would also be required to report how many months they flew each raptor in possession. The nonresident falconers wishing to capture wild raptors would now be informed of the random drawing for Northern goshawk in the Tahoe Basin, and prairie falcons statewide. The application for a nonresident capture of a wild raptor would also include a payment section.

- Falconers would be required to submit an annual report summarizing the number and type of prey species taken while hunting, counties hunted, and raptors used in hunting during the most recent license year upon license renewal.
- Conditions would be defined for importation of raptors into California.
- Specifications for the sponsorship program for an Apprentice falconer would be clarified, including qualifications, roles and responsibilities of the sponsor; requirements for being a sponsor; duration of sponsorship; and instructions for what to do in the case of sponsorship termination.
- Apprentice falconer age limit would decrease to 12, from 14. General falconer age limit would decrease to 16, from 18. Apprentice falconers would only be able to possess raptors that are not imprinted on humans, no nestlings or juveniles less than one year old capable of flight, and they would train raptors in the pursuit of wild game for hunting. Apprentice falconers would advance to General Class if he/she has been at the Apprentice level for at least 2 years, including maintaining, training, flying, and hunting with the raptor for at least 4 months in each regulatory year. Apprentice falconers would have their facilities inspected and certified after passing the exam, and prior to a license being issued.
- General falconers would advance to Master Class if they have been at the General level for at least five years.
- General falconers would be able to possess up to 3 raptors total (increased from 2), of which only 2 can be wild caught. Master falconers would be able to possess up to 5 wild caught raptors (increased from 3), and any number of captive-bred or hybrid raptors. For General and Master Falconers, only nestlings or juvenile raptors less than one year old and capable of flight would be able to be captured from the wild; except American kestrel or great horned owl would be able to be captured at any age. General and Master falconers could possess any captive-bred or hybrid raptor. However neither class could possess listed species and only Master class could possess eagles. Golden eagles could only be possessed if they are obtained from a rehabilitation facility, captive-breeder, or if they are imported into California.
- Falconry records would be kept for at least 5 years.
- Capturing raptors from the wild would be able to occur anytime during the year, except for merlin. A falconer would only be able to capture up to 2 wild raptors from the wild annually. A nonresident falconer would only be able to capture only 1 wild raptor, but must apply with the Department to do so. One raptor species would be eliminated for wild capture – the ferruginous hawk, and two species would be added – red-shouldered hawk and barred owl. The Lake Tahoe Basin would be re-opened for capturing Northern goshawk from the wild, with a capture quota of one goshawk annually. Wild capture quota would be added for prairie falcons limiting annual capture to 14 individuals annually.
- Capture of merlins from the wild would be limited to the non-breeding season, August 15 to February 28.
- Capture quotas would be implemented for prairie falcon statewide and goshawk in the Lake Tahoe Basin via a random drawing process through the Department's Automated License Drawing System (ALDS).
- Conditions for release of raptors back would be included.
- In the case of capturing wild raptors, a falconer would be required to be at the site of capture unless they are deemed exempt. If marked raptors are captured, regulations would clarify the process for determining status of that raptor. If raptors are injured in the

capturing process, regulations would note what a falconer is required to do. If non-target raptors are captured, the falconer would release the raptor immediately. A falconer would only be able to capture on public lands where capture is allowed and on private or tribal lands if they gain permission.

- New language would be added that specifies requirement and limitations of transferring a falconry raptor. When, how and under what circumstances temporary and permanent transfers may occur would be defined.
- If a raptor with a research band or marker is captured by a falconer, new language would specify action to take in notifying the Bird Banding Lab and/or the researcher.
- A falconer would be allowed to add a raptor with a research band or marker, or a raptor injured during trapping to his/her license. An injured raptor may also be given to a rehabilitation facility.
- Non-target raptors would be released immediately at the site of capture.
- Hybrid, captive-bred, or exotic raptors would have two attached functioning radio transmitters when flown free.
- Falconers would be able to obtain raptors from rehabilitation facilities. Falconers would also be able to temporarily possess raptors from rehabilitation facilities to assist in conditioning raptors for release back into the wild.
- Hacking would be allowed to condition raptors for release back into the wild and for conditioning young raptors to hunt.
- Language would be added that defines options for what to do with a falconry raptor carcass, and what to do if a falconry raptor or exotic is encountered flying free.
- Purchase, buy, sell, trade or barter of wild raptors or parts would be restricted. Gifting and donating wild raptors and parts is allowed. Purchase, buy, sell, trade or barter would be allowed for captive-bred, hybrid, and exotic raptors.
- With some limitations and under certain circumstances, other uses of falconry raptors would be allowed, including education, exhibiting, propagation, and abatement, but only if other required permits are in place.
- Captive-bred raptors listed under MBTA would be banded with seamless bands. Language notes specific restrictions and condition for banding placement, removal, reporting, or exemption on falconry raptors. All wild raptors would require bands. The Department would distribute bands via the License and Revenue Branch or regional offices. The Department would be able to exempt the banding requirement if a raptor is documented to have health issues related to the band.
- Falconers would be able to use ISO-compliant microchips that they supply themselves on raptors in addition to bands. The Service would only supply the ISO chip for Northern goshawks and only if the raptor cannot wear bands for health reasons.
- The Service's falconry regulation stipulates standards that indoor and outdoor facilities must meet, as well as equipment that should be on hand. These standards would be referenced and defined in proposed regulations. Falconry facilities would be inspected and certified prior to issuance of a license. Unannounced inspections would be able to take place as needed with pre-authorization from falconer and/or landowner. Inspection of facilities would be required for a Apprentice falconers, a new applicant, licensees renewing a lapsed license, and licensees that move to a new address. Inspections would be conducted by Department Law Enforcement Officers.
- New fees associated with the increased oversight of the Department would be defined under a separate Department of Fish and Game rulemaking and setting of fees will require revision of Title 14, Section 703 under Department authority found in Section 2150.2, Fish and Game Code.

The benefits of the proposed regulations are concurrence with Federal law, and sustainable management of the raptor and upland game resources to protect raptor populations while continuing to provide recreational opportunities.

The proposed regulations are neither inconsistent nor incompatible with existing Federal and State regulations. No other State agency has the authority to promulgate falconry regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, on all options relevant to this action at a hearing to be held in the State of California Resources Building, First Floor Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, February 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, on all options relevant to this action at a hearing to be held in the Mt. Shasta Hatchery Museum, #3 North Old Stage Road, Mt. Shasta, California, on Wednesday, March 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before February 20, 2013 to be included in the Commissioners' briefing materials, at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 12:00 noon on March 4, 2013 to be delivered by staff to the meeting; or be presented to Commission staff at the meeting no later than the agenda item is heard on March 6, 2013, in Mt. Shasta, CA.** If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Jon Snellstrom at the preceding address or phone number. **Ms. Carie Battistone, Staff Environmental Scientist, Wildlife Branch, Department of Fish and Game, telephone (916) 445-3615, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### **Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

## **Impact of Regulatory Action/Results of the Economic Impact Analysis**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) **Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States.**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Considering the small number of permits issued over the entire state, this proposal is economically neutral to business.

- (b) **Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:**

The proposed falconry regulations will not have impacts to jobs and/or businesses in California.

**Health and Welfare of California Residents:** Hunting is an outdoor activity that can provide several benefits for individuals who partake in it and for the environment.

The proposed falconry regulations will not have impacts to worker safety.

**Benefits to the Environment:** Ensure a sustainable management of raptor populations in California.

- (c) **Cost Impacts on Representative Private Person or Business**

The Fish and Game Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

The Department of Fish and Game will identify and consider fees for permits, permit applications and facility inspections in amounts sufficient to cover the costs of administering, implementing and enforcing regulations under Section 703, Title 14, California Code of Regulations, in a separate rulemaking, pursuant to Fish and Game Code Section 2150.2

- (d) **Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State.**

All costs, such as those incurred for application reviews, processing, issuing permits, maintaining databases, inspections, development and maintenance of a band tracking database, and other administrative or enforcement costs will be fully offset by fees paid by the regulated parties. The Department of Fish and Game must address and propose to revise the falconry license fee structure under the authority of Section 2150.2, Fish and Game Code, in a separate rulemaking. This additional rulemaking could result in increased revenue from the falconry program. There are no costs or savings with regard to federal funding to the State.

(e) Other Nondiscretionary Costs/Savings to Local Agencies.

The effects to local agencies are unknown at this time.

(f) Programs Mandated on Local Agencies or School Districts.

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4.

None.

(h) Effect on Housing Costs.

None.

#### Effect on Small Business

It has been determined that the adoption of these regulations will not have impact to small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

#### Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: November 27, 2012

Sonke Mastrup  
Executive Director



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**From:** Board of Supervisors  
**To:** BOS-Supervisors  
**Subject:** OCC's 2012 Third Quarter Statistical Report.  
**Attachments:** OCC\_3Q12.pdf

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**From:** [pamela.thompson@sfgov.org](mailto:pamela.thompson@sfgov.org) [mailto:[pamela.thompson@sfgov.org](mailto:pamela.thompson@sfgov.org)]  
**Sent:** Monday, December 17, 2012 12:17 PM  
**To:** Goudeau, Matthew; Board of Supervisors  
**Subject:** OCC's 2012 Third Quarter Statistical Report.

Attache is the 2012 Third Quarter Statistical report from the Office of Citizen Complaints. Hard copies will follow in the regular mail. Please let me know if I may provide anything further.

Thanks,

Pamela Thompson  
Executive Assistant  
Police-Office of Citizen Complaints  
25 Van Ness Avenue #700  
San Francisco, CA 94102  
415-241-7721  
[www.sfgov.org/occ](http://www.sfgov.org/occ)

**Document is available  
at the Clerk's Office  
Room 244, City Hall**

**FW: Haight Ashbury Recycling Center**

## Board of Supervisors

Sent: Tuesday, December 18, 2012 4:18 PM

To: BOS-Supervisors

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From: Amy Perlmutter [amy@aperlmutter.com]  
Sent: Tuesday, December 18, 2012 10:40 AM  
To: Lee, Mayor  
Cc: Board of Supervisors  
Subject: Haight Ashbury Recycling Center

Dear Mayor Lee and Board of Supervisors:

I am writing to urge you to keep the recycling center in Golden Gate Park. To get rid of the recycling center would be a step backwards in San Francisco's path to Zero Waste.

By way of history, I was the city's Recycling Program Manager from 1986-1992. I was the person responsible for implementing the city's first multi-material curbside recycling program. In all of our planning and efforts, and despite strong political pressure even then to do away with the neighborhood recycling centers, I always knew that community recycling centers did play, and would continue to play, a key role in getting to zero waste (although we may not have called it zero waste then). I still believe that strongly, and I also believe that the lack of community recycling centers is why many other cities are struggling to get to zero waste.

Community recycling centers provide a recycling outlet for people who cannot store their materials until collection day; they provide a way for people who want to recover the redemption value they pay on their containers; they allow people who are recycling purists to source separate their materials, which is beneficial for recycling markets; they provide drop off options for reusable materials and materials which may not be able to be collected at the curb; they are an incubator for testing the feasibility of recovering new materials; they provide a community building function; and, they provide an educational function about recycling as well as other environmental activities.

I know the spot behind Kezar and it is not a great spot for park uses. But, for close to 40 years it has served as a center that helps the environment through keeping valuable materials out of the waste stream, and through education about the environment. Frankly, HANC is how I became interested in native plants.

HANC does other good work in the city to support the environment, and their recycling center is what underwrites this. It will be a huge loss to the city, the Haight Ashbury residents, the environment, and even the park if HANC is evicted from the site. One of the reasons I have heard for the eviction is that HANC attracts homeless people. San Francisco has had a serious homeless problem for decades. HANC is not why there are homeless in San Francisco or the park, and getting rid of the recycling center is not even going to put a dent in that problem.

The rest of the world looks to the leadership set by San Francisco when it comes to recycling. I hope you will do the right thing.

Please feel free to contact me if you would like to discuss this further.

Sincerely,

Amy Perlmutter

Amy Perlmutter  
Perlmutter Associates  
23 Avon Street  
Cambridge, MA 02138  
617-354-5456

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owner, Massachusetts Clean Tech LinkedIn group

*epage*

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**From:** Ryerson, Olga [olga.ryerson@sfgov.org]  
**Sent:** Wednesday, December 19, 2012 2:28 PM  
**To:** Ryerson, Olga  
**Subject:** Executive Directive 12-01; Contractor Partnering and Prompt Payment Policies  
**Attachments:** 12-01 Contractor Partnering and Prompt Payment.PDF

Dear Department Heads:

Please see attached Executive Directive 12-01, dated December 19, 2012.

Thank you,

Olga

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Olga A. Ryerson  
Confidential Secretary to the Mayor  
City & County of San Francisco  
City Hall, Room 200  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Phone: (415) 554-6910  
Fax: (415) 554-6113



**Executive Directive 12-01**  
**Contractor Partnering and Prompt Payment Policies**  
*December 18, 2012*

By virtue of the power and authority vested in me by Section 3.100 of the San Francisco Charter to provide administration and oversight of all departments and governmental units in the executive branch of the City and County of San Francisco, I do hereby issue this Executive Directive to become effective immediately.

In continuing the City and County of San Francisco's policies targeted at improving the contracting status quo and breaking down the barriers that impede opportunities and inclusion, a committee comprised of representatives from various City departments and the construction community addressed two key issues of importance:

- Viability of instituting partnering on City sponsored public works projects as a means of resolving construction issues and disputes in their early stages; and
- Improving effective prompt payment processes for contractors, including LBEs and all subcontractors.

The Committee developed several policies and procedures to be implemented by all City departments with contracting authority pursuant to Chapter 6 of the Administrative Code. I am pleased to initiate their recommendations.

Effective January 1, 2013, the Department of Public Works, the San Francisco Public Utilities Commission, the San Francisco Municipal Transportation Agency, the Port of San Francisco, the San Francisco International Airport, and the San Francisco Recreation and Parks Department ("Department") shall implement the following actions:

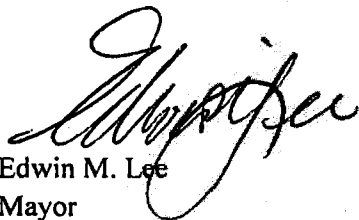
1. **Partnering** - Each Department shall utilize partnering for all appropriate City public works construction projects and include partnering language in bid specifications and contracts. Each Department will determine the level of partnering that will be utilized for each project based on the City and County of San Francisco Construction Project Partnering Profile created and agreed upon by the Committee. In addition, each Department will provide internal partnering training for its own staff and develop internal procedures for implementing partnering practices. To strengthen the culture of partnering across all City departments, each department will designate a point person to promote partnering throughout his/her Department.
2. **Prompt Payment**-Each Department will utilize or work towards acquiring an online payment system that enables prime contractors and subcontractors to track the status of invoices and payments. Each Department with an automated payment system will send email notifications to all listed subcontractors when the prime submits its invoice. In addition, prime contractors will be required to include subcontractors' acceptable invoices in their monthly invoice submissions no later than 30 days after receipt of such invoices and contractors shall be required to pay



subcontractors within seven days after receipt of the payment made by the Department. The 3 day payment provision provided within Chapter 14B of the Administrative Code shall remain in full force and effect. The Departments will host quarterly trainings for contractors on invoicing and payment procedures and designate payment issues as allowable topics in partnering sessions. Each Department will continue to make strides to improve invoice and payment turnaround times and continue to identify strategies to ensure that subcontractors, particularly LBEs, receive payments for work performed on City projects in a timely manner.

3. Each Department will designate representatives to meet quarterly during the first year following adoption of these new partnering and prompt payment practices. These representatives will track the success of the new policies outlined above and report back to me no later than January 31, 2014.

The Department of Public Works will provide implementation coordination during this first year. For questions concerning this Executive Directive and its implementation, please contact Mohammed Nuru, Director of the Department of Public Works, at [mohammed.nuru@sfdpw.org](mailto:mohammed.nuru@sfdpw.org) or 415-554-6919.



Edwin M. Lee  
Mayor



## Board of Supervisors

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**To:** BOS-Supervisors  
**Subject:** : Release of Pest Prevention By Design Guidelines - RESEND  
**Attachments:** Final PPBD Guidelines 12-5-12.pdf

**Document is available  
at the Clerk's Office  
Room 244, City Hall**

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**From:** Geiger, Chris  
**Sent:** Tuesday, December 18, 2012 1:26 PM  
**To:** Geiger, Chris  
**Subject:** RE: Release of Pest Prevention By Design Guidelines - RESEND

Note that the link provided below is not working today due to a website outage, so I have attached the file to this email for your convenience.

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**From:** Geiger, Chris  
**Sent:** Monday, December 17, 2012 5:59 PM  
**To:** Geiger, Chris  
**Subject:** FW: Release of Pest Prevention By Design Guidelines - PLEASE DISTRIBUTE  
**Importance:** High

TO: SAN FRANCISCO IPM TECHNICAL ADVISORY COMMITTEE AND INTERESTED PARTIES

Apologies for cross-posting.

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**From:** Geiger, Chris  
**Sent:** Monday, December 17, 2012 5:55 PM  
**To:** Geiger, Chris  
**Subject:** Release of Pest Prevention By Design Guidelines - PLEASE DISTRIBUTE  
**Importance:** High

Dear friends in the architecture, construction, engineering and pest management fields:

I am proud to announce the release of the **Pest Prevention By Design Guidelines**, a new, peer-reviewed resource for designing buildings that are more resistant to common pests, such as rats, mice, pigeons and cockroaches. Funded by the US Centers for Disease Control, the free guidelines aim to reduce both pests and the use of pesticides for the lifetime of a building, thereby improving indoor air quality, reducing toxics exposure, and more effectively managing pests.

The San Francisco Department of the Environment led the project over the past year and a half, with extensive assistance from a national, cross-sector team of experts. The Center for Environmental Health helped coordinate the project, and the International Code Council has reviewed the guidelines. You can download them here:

<http://www.sfenvironment.org/download/pest-prevention-by-design-guidelines>

In the built environment, both pests and pesticides pose hazards. Studies have shown that toddlers exposed to pesticides are twice as likely to develop asthma, an affliction that costs the U.S. \$56 billion each year. Pesticides also make their way to surface water, and can have impacts on aquatic life at extremely low (parts per



## Board of Supervisors

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**From:** Collins, Robert  
**Sent:** Wednesday, December 19, 2012 11:00 AM  
**To:** Board of Supervisors  
**Cc:** Mar, Eric (BOS); Farrell, Mark; Chiu, David; Chu, Carmen; Olague, Christina; Kim, Jane; Kim, Jane; Wiener, Scott; Elsbernd, Sean; Campos, David; Cohen, Malia; Avalos, John; Wolf, Delene  
**Subject:** Rent Board Annual Statistical Report 2011-12 (Revised)  
**Attachments:** Clerktr11-12(Revised).PDF; RB Statistical Report 2011-2012 (revised).pdf

Dear Ms. Calvillo,

Please find attached a letter from Executive Director, Delene Wolf, as well as the Rent Board's Annual Statistical Report for 2011-12.

Sincerely,  
Robert Collins

--

robert collins / deputy director / san francisco rent board / 415.252.4628 / sfrb.org



December 17, 2012

Angela Calvillo  
Clerk of the Board  
Board of Supervisors, Room 244  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Revised Rent Board Annual Statistical Report 2011-12

Dear Ms. Calvillo:

Please find attached the department's revised annual statistical report for FY2011-12.

Please call me at 252-4650 if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Delene Wolf", with a long horizontal flourish extending to the right.

Delene Wolf, Executive Director  
Rent Stabilization and Arbitration Board

encl.

cc:

Mayor Edwin M. Lee  
Supervisor David Chiu  
Supervisor Mark Farrell  
Supervisor John Avalos  
Supervisor David Campos  
Supervisor Carmen Chu  
Supervisor Jane Kim  
Supervisor Scott Weiner  
Supervisor Sean Elsbernd  
Supervisor Eric Mar  
Supervisor Malia Cohen  
Supervisor Christina Olague  
Library Documents Dept.



Rent Board Memorandum

**Date:** December 17, 2012  
**To:** To Interested Parties  
**From:** Delene Wolf, Executive Director *D.W.*  
**Re:** Revised Annual Statistical Report, FY 2011-12

[NOTE: We are issuing a revised Annual Statistical Report to correct a data entry error that mistakenly stated the number of tenant petitions for FY2011-12 as 736 instead of 791. The revised report corrects the following pages: Rent Board Memorandum (this page), Rent Board Statistical Summary Page 2011-2012, Rent Board Statistical Summary Page • Yearly Trend Fiscal Years 2003/04-2011/12, and Table 1, Table 1A, and Table 1B.]

The following pages reflect the filings and activities at the Rent Board for the past fiscal year ending June 30, 2012. Overall, the number of petitions filed with the Board increased by 27% from 1,078 in FY10-11 to 1,368 in FY11-12. Excluding utility passthrough petitions, the total number of petitions filed in FY11-12 increased to 1299, the highest number of petitions since FY01-02. Principal Place of Residence (1.21) petitions increased 100% from 19 in FY10-11 to 38 in FY 11-12. Capital Improvement Petitions increased by 48% from 145 in FY10-11 to 214 FY11-12. Total Landlord and Tenant Appeals decreased by 5% from 115 in FY10-11 to 109 in FY11-12.

Total eviction notices filed with the Board increased by 7% from 1,328 to 1,421, while the number of tenant reports of alleged wrongful eviction increased by 16% from 491 to 570. The number of units withdrawn from the rental market under the Ellis Act increased from 72 to 121 units.

Highlights of some of the tables are as follows (percentages as compared to last year):

- +100% Principal Place of Residence Petitions (1.21)
- +50% Tenant ADR
- +48% Capital Improvement Petitions
- +33% Total Landlord Petitions
- +30% Utility Passthroughs
- +24% Total Tenant Petitions
- +16% Reports of Alleged Wrongful Eviction
- +13% Operating and Maintenance Petitions
- +7% Eviction Notices
- 4% Landlord Appeals
- 6% Tenant Appeals
- 14% Landlord ADR

**Page 2**  
**Rent Board Annual Report**

Our services last year also included the following:

- 21,320 calls made to our 24-hour automated Info to Go information line;
- 27,386 calls handled by the counseling staff;
- 9,886 front counter visitors were served;
- 13,307,490 web pages were visited.

This report can also be obtained on our website at [www.sfrb.org](http://www.sfrb.org) under "Statistics".

Encl.

cc: Rent Board Commissioners

**Rent Board Statistical Summary Page 2011-2012**

MONTH	Table 1	Table 2	Table 3	Table 4	Table 5	Table 6	Table 7	Table 8	Table 9	Table 10	Table 11	Table 12	Table 13	Table 14	Table 15	Table 16											
	Tenant Petitions	Tenant Summary Petitions	Subtenant Overcharge Petitions	O&M/Comps Pet. Units	Capital Improvement Pet. Units	Landlord Extension Pet. Units	Tenant in Occupancy Pet. Units	Eviction Notices	Eviction Report	Tenant Appeals	Landlord Appeals Pet. Units	Ellis Filings Pet. Units	Costa Hawkins Pet. Units	Tenant ADR	Landlord ADR	Utility Passthrough Pet. Units											
July	40	0	10	3	20	8	283	1	1	2	2	122	32	6	2	2	2	8	2	3	3	2	2	1	1	20	
Aug.	48	2	6	5	18	21	80	0	0	5	5	143	55	4	2	2	4	7	1	1	1	4	4	0	1	3	
Sept.	78	3	3	2	15	11	50	0	0	2	2	134	55	3	1	1	2	4	3	3	3	4	4	3	3	28	
Oct.	79	4	6	2	12	15	74	2	3	2	2	118	52	9	7	7	5	21	0	0	0	5	5	3	2	14	
Nov.	67	5	6	2	26	29	223	0	0	3	3	111	46	2	3	3	2	8	1	1	1	1	1	2	1	18	
Dec.	59	2	4	4	20	11	33	1	19	2	2	101	46	2	2	2	2	11	3	3	3	4	4	2	2	50	358
Jan.	72	2	2	5	23	25	129	0	0	3	3	86	40	10	3	3	2	5	2	2	5	5	1	1	0	0	
Feb.	57	8	3	3	12	23	142	0	0	8	8	142	38	6	4	4	6	19	1	1	1	6	2	2	2	73	
March	83	3	6	1	3	24	102	0	0	1	1	99	53	5	14	14	5	8	5	5	5	5	5	6	2	216	
April	83	3	5	1	1	13	60	1	1	2	2	117	38	4	2	2	2	4	1	1	1	5	5	1	4	9	
May	61	1	11	3	8	19	76	1	1	4	4	147	63	9	2	2	6	19	8	8	5	5	1	1	1	1	
June	64	1	5	4	26	15	169	1	1	4	4	101	52	2	5	5	4	7	12	12	2	2	2	3	2	3	
<b>TOTALS</b>	<b>791</b>	<b>34</b>	<b>67</b>	<b>35</b>	<b>184</b>	<b>214</b>	<b>1,421</b>	<b>7</b>	<b>26</b>	<b>38</b>	<b>38</b>	<b>1,421</b>	<b>570</b>	<b>62</b>	<b>47</b>	<b>47</b>	<b>42</b>	<b>121</b>	<b>40</b>	<b>40</b>	<b>48</b>	<b>48</b>	<b>25</b>	<b>25</b>	<b>69</b>	<b>743</b>	

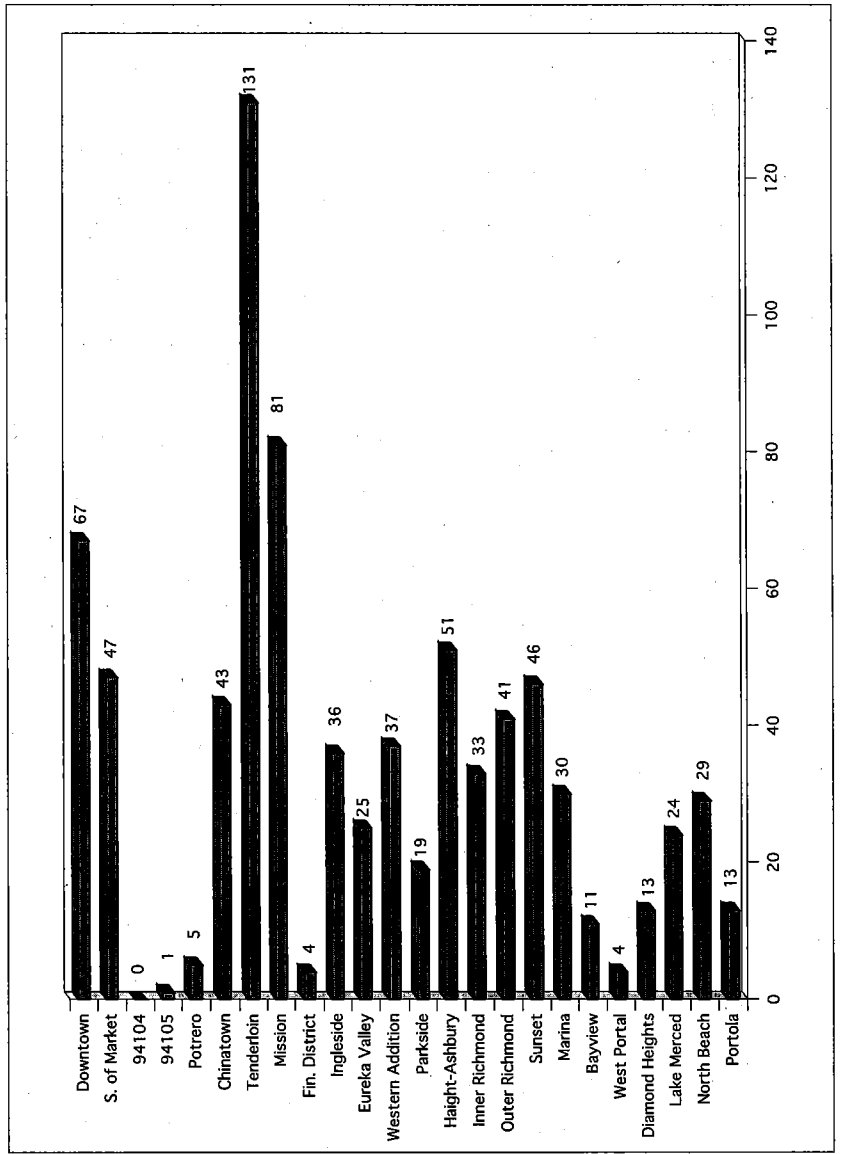
# Rent Board Statistical Summary Page • Yearly Trend Fiscal Years 2003/04-2011/12

	FY 2003-2004		FY 2004-2005		FY 2005-2006		FY 2006-2007		FY 2007-2008		FY 2008-2009		FY 2009-2010		FY 2010-2011		FY 2011-2012	
	Pet.	Units	Pet.	Units	Pet.	Units	Pet.	Units	Pet.	Units	Pet.	Units	Pet.	Units	Pet.	Units	Pet.	Units
Tenant Petitions	614	579			656		621		625		720		648		676		791	
Summary Petitions	60	42			40		64		45		51		30		31		34	
Subtenant Petitions	10	14			11		3		1		1		12		18		67	
Tenant ADR	52	31			34		18		31		24		30		32		48	
<b>Tenant Total:</b>	<b>736</b>	<b>736</b>	<b>666</b>	<b>666</b>	<b>741</b>	<b>741</b>	<b>706</b>	<b>706</b>	<b>702</b>	<b>702</b>	<b>796</b>	<b>796</b>	<b>720</b>	<b>720</b>	<b>757</b>	<b>757</b>	<b>940</b>	<b>940</b>
O&M/Comps Petitions	78	1,801	35	123	30	183	38	234	37	171	34	204	22	141	31	124	35	184
Costa Hawkins	19	19	25	25	43	43	31	31	42	42	35	35	23	23	37	38	40	40
Tenant in Occupancy	35	35	43	43	65	65	57	57	29	32	30	30	18	18	19	19	38	38
Prop I Rent Petitions	1	1																
Landlord ADR	20	20	21	21	18	18	16	16	19	19	22	22	33	33	29	29	25	25
Utility Passthrough	153	1,876	143	690	384	5,055	548	5,041	621	5,929	508	3,904	340	2,745	169	705	207	1,030
<b>Landlord Sub Total:</b>	<b>198</b>	<b>1,691</b>	<b>166</b>	<b>908</b>	<b>164</b>	<b>707</b>	<b>187</b>	<b>1,043</b>	<b>196</b>	<b>1,025</b>	<b>199</b>	<b>1,650</b>	<b>134</b>	<b>629</b>	<b>145</b>	<b>852</b>	<b>214</b>	<b>1,421</b>
Capital Improvement	11	39	15	21	18	33	6	14	11	23	6	17	6	13	7	9	7	26
Landlord Extension	209	1,730	181	929	182	740	193	1,057	207	1,048	205	1,667	140	642	152	861	221	1,447
<b>Cap. Imp. Sub Total:</b>	<b>362</b>	<b>3,606</b>	<b>324</b>	<b>1,619</b>	<b>566</b>	<b>5,795</b>	<b>741</b>	<b>6,098</b>	<b>828</b>	<b>6,977</b>	<b>713</b>	<b>5,571</b>	<b>480</b>	<b>3,387</b>	<b>321</b>	<b>1,566</b>	<b>428</b>	<b>2,477</b>
<b>Landlord Total:</b>	<b>1,098</b>	<b>4,342</b>	<b>990</b>	<b>2,285</b>	<b>1,307</b>	<b>6,536</b>	<b>1,447</b>	<b>6,804</b>	<b>1,530</b>	<b>7,679</b>	<b>1,509</b>	<b>6,367</b>	<b>1,200</b>	<b>4,107</b>	<b>1,078</b>	<b>2,323</b>	<b>1,368</b>	<b>3,417</b>
Total Petitions	126	126	179	179	80	80	175	175	78	78	153	153	126	126	66	66	62	62
Tenant Appeals	75	107	72	784	45	81	44	375	55	241	67	141	43	44	49	55	47	47
Landlord Appeals	201	233	251	963	125	161	219	550	133	319	220	294	169	170	115	121	109	109
<b>Total Appeals:</b>	<b>1,599</b>	<b>1,554</b>	<b>1,554</b>	<b>1,554</b>	<b>1,536</b>	<b>1,475</b>	<b>1,475</b>	<b>1,600</b>	<b>1,600</b>	<b>1,315</b>	<b>1,315</b>	<b>1,372</b>	<b>1,372</b>	<b>1,328</b>	<b>1,328</b>	<b>1,421</b>	<b>1,421</b>	
Eviction Notices	408		357		445		466		531		488		452		491		570	
Eviction Reports	107	352	131	480	100	454	89	330	92	393	36	165	34	108	24	72	42	121
Ellis Petitions																		
<b>Grand Total</b>	<b>3,413</b>	<b>3,283</b>	<b>3,513</b>	<b>3,513</b>	<b>3,696</b>	<b>3,696</b>	<b>3,886</b>	<b>3,886</b>	<b>3,568</b>	<b>3,568</b>	<b>3,227</b>	<b>3,227</b>	<b>3,036</b>	<b>3,036</b>	<b>3,510</b>	<b>3,510</b>	<b>3,510</b>	

Table 1

Tenant Petitions by Zip Code • 2011-2012

Neighborhood	Zip Code	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	Total
		Pet.	Pet.	Pet.	Pet.	Pet.	Pet.	Pet.	Pet.	Pet.	Pet.	Pet.	Pet.	Pet.
Downtown	(02)	0	5	7	3	6	6	14	4	5	10	4	3	67
S. of Market	(03)	3	3	1	4	16	1	9	1	1	2	4	2	47
94104	(04)	0	0	0	0	0	0	0	0	0	0	0	0	0
94105	(05)	0	0	0	0	0	0	0	0	0	0	0	0	0
Potrero	(07)	1	1	0	0	0	0	0	2	0	1	0	0	1
Chinatown	(08)	4	1	21	2	0	5	4	0	0	1	2	3	43
Tenderloin	(09)	4	13	5	27	4	19	9	9	12	13	8	8	131
Mission	(10)	2	6	3	15	7	2	3	8	8	10	8	9	81
Fin. District	(11)	0	0	0	0	0	1	0	0	1	1	0	1	4
Ingleside	(12)	2	1	9	1	2	2	3	1	4	3	1	7	36
Eureka Valley	(14)	2	1	1	0	5	3	1	2	5	1	2	2	25
Western Addition	(15)	0	2	1	2	2	3	2	14	3	3	4	1	37
Parkside	(16)	0	1	2	2	3	2	2	1	2	0	1	3	19
Haight-Ashbury	(17)	4	4	3	9	6	3	3	6	6	3	3	1	51
Inner Richmond	(18)	3	5	4	3	0	2	1	1	7	0	2	5	33
Outer Richmond	(21)	2	0	3	0	3	1	8	1	3	8	9	3	41
Sunset	(22)	5	0	3	2	5	5	2	1	15	3	2	3	46
Marina	(23)	1	1	6	2	3	1	2	4	3	2	4	1	30
Bayview	(24)	1	0	3	0	0	0	0	1	1	3	2	0	11
West Portal	(27)	0	0	0	0	0	1	0	0	1	0	1	1	4
Diamond Heights	(31)	0	1	4	3	1	1	1	1	0	1	0	0	13
Lake Merced	(32)	1	1	1	1	1	0	0	0	1	16	1	1	24
North Beach	(33)	4	1	0	2	3	1	7	0	1	2	0	8	29
Portola	(34)	1	1	1	1	0	0	1	0	4	0	3	1	13
<b>TOTALS</b>		<b>40</b>	<b>48</b>	<b>78</b>	<b>79</b>	<b>67</b>	<b>59</b>	<b>72</b>	<b>57</b>	<b>83</b>	<b>83</b>	<b>61</b>	<b>64</b>	<b>791</b>



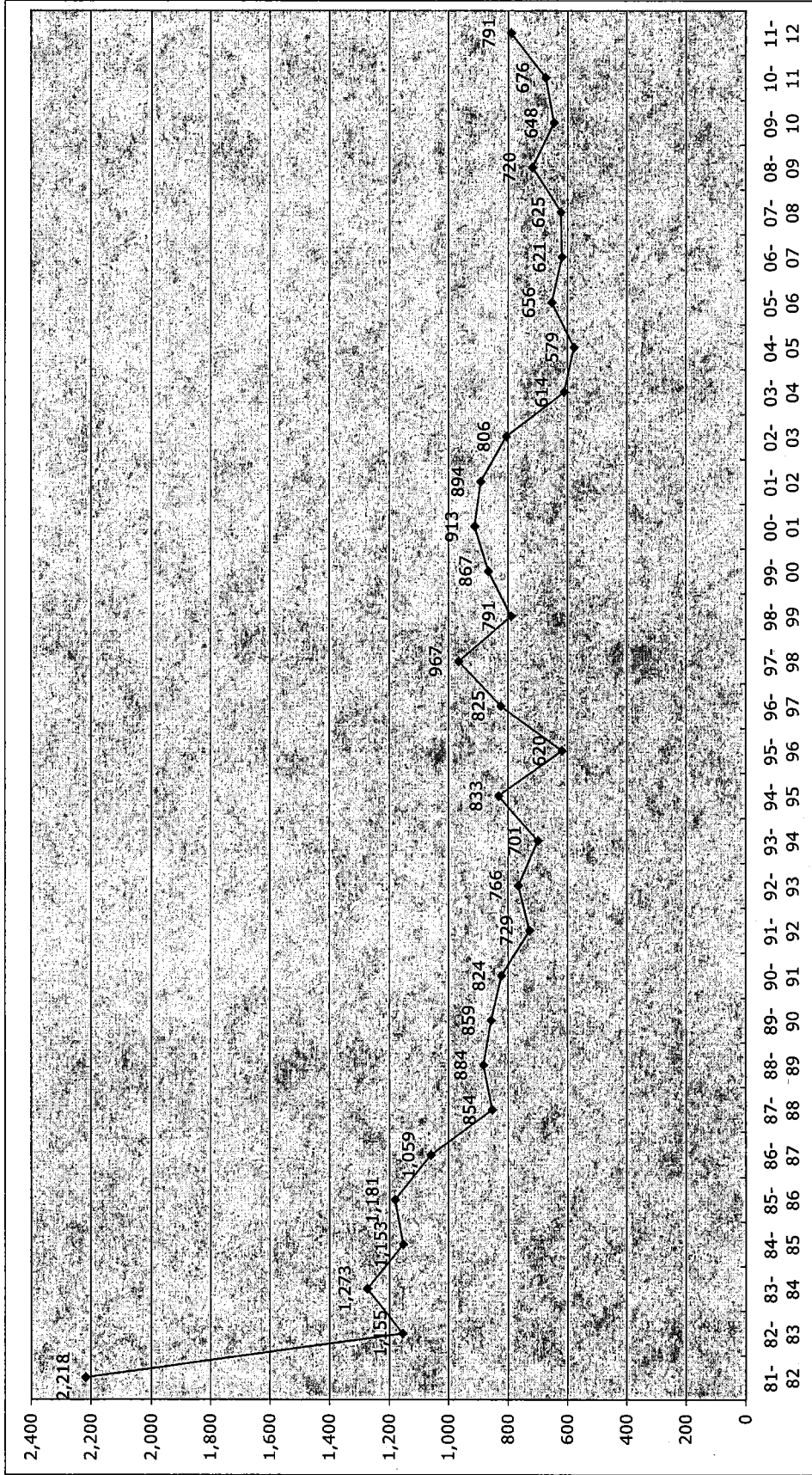
**Table 1A  
Tenant Petitions • Yearly Trend**

MONTH	FY 81-82	FY 82-83	FY 83-84	FY 84-85	FY 85-86	FY 86-87	FY 87-88	FY 88-89	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96
July	297	58	158	112	163	78	63	77	57	94	73	54	48	44	39
Aug.	256	50	110	100	127	62	98	116	58	68	67	65	65	98	55
Sept.	172	77	82	77	61	177	60	79	48	53	52	44	31	80	31
Oct.	190	70	58	73	89	83	91	71	37	58	48	80	45	80	47
Nov.	133	75	72	58	49	76	89	38	43	47	92	60	80	64	42
Dec.	208	126	103	70	79	65	78	49	54	60	41	74	71	82	54
Jan.	173	123	121	93	164	61	57	89	78	83	59	52	71	66	48
Feb.	232	105	158	92	93	82	55	66	112	80	46	66	53	75	51
March	253	148	140	141	115	99	83	54	83	72	76	68	54	69	90
April	164	103	72	139	84	72	64	89	80	71	72	64	81	62	55
May	62	103	115	102	63	124	70	91	120	70	51	92	41	67	59
June	78	117	84	96	94	80	46	65	89	68	52	47	61	46	49
<b>TOTALS</b>	<b>2,218</b>	<b>1,155</b>	<b>1,273</b>	<b>1,153</b>	<b>1,181</b>	<b>1,059</b>	<b>854</b>	<b>884</b>	<b>859</b>	<b>824</b>	<b>729</b>	<b>766</b>	<b>701</b>	<b>833</b>	<b>620</b>

MONTH	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
July	58	72	67	76	59	55	59	67	60	50	47	46	43	65	42	40
Aug.	99	61	88	71	81	67	70	50	76	41	58	57	48	58	35	48
Sept.	42	53	84	70	59	46	70	50	49	57	48	48	48	43	58	78
Oct.	71	84	49	73	125	119	58	77	39	44	43	56	67	39	102	79
Nov.	42	48	52	67	78	58	57	30	46	43	44	54	37	54	37	67
Dec.	71	71	67	62	62	78	83	52	52	40	64	54	48	56	58	59
Jan.	92	87	49	100	66	83	65	40	49	101	44	51	53	58	47	72
Feb.	72	72	62	85	57	63	106	61	39	58	50	51	91	69	50	57
March	77	86	69	70	99	80	64	46	39	54	61	64	71	61	91	83
April	76	69	73	48	100	106	55	44	58	52	54	46	83	54	58	83
May	57	100	63	86	67	79	67	50	37	53	49	52	50	44	54	61
June	68	164	68	59	60	60	52	47	35	63	59	46	81	47	44	64
<b>TOTALS</b>	<b>825</b>	<b>967</b>	<b>791</b>	<b>867</b>	<b>913</b>	<b>894</b>	<b>806</b>	<b>614</b>	<b>579</b>	<b>656</b>	<b>621</b>	<b>625</b>	<b>720</b>	<b>648</b>	<b>676</b>	<b>791</b>



Table 1B  
 Tenant Petitions • Yearly Trend



**Oak/Fell Bike lane**

chelsea shields [chelsea\_shields@yahoo.com]

Sent: Tuesday, December 04, 2012 11:05 PM

To: Board of Supervisors; Lee, Mayor

file 12/11/12

Dear supervisors and Mayor Lee:

I just wanted to write and confirm that I enthusiastically support the traffic and parking modifications that are underway on Oak and Fell. I am a resident that lives directly on Oak and street parks my car. Although we will lose a few parking spots I think the proposed changes will significantly improve the safety for bikers on these few blocks and that this is FAR more important than the parking concerns. I moved from Portland OR and am a bike commuter here as well as in Portland. We found that the "green" biker boxes and road demarcations hugely improve(d) driver awareness.

Thank you for your commitment to support city and traffic modifications that improve biker safety and promote alternative commuting!

Best Regards,

Chelsea S Bahney

1235 Oak Street, Apt #1  
San Francisco, CA 94117  
503-333-3991  
chelsea\_shields@yahoo.com

BOS-11

**Oak Fell Bike Plan - Vote No**

sfpedestrians@gmail.com

Sent: Wednesday, December 05, 2012 9:44 AM

Please include the letter attached in the Supervisor packet for the Oak Fell Bike Plan Project for the December 11 meeting. I believe it is file #121118.

Thank you,  
Jung

-----

Jung O'Donnell  
145 Broderick Street #203  
San Francisco, CA 94117

December 1, 2012

Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall  
San Francisco, Ca. 94102

Re: Oak and Fell Street Project - Vote No

Dear Board of Supervisors,

My family and I have lived in San Francisco for 14 years and in the Haight at Broderick/Page for 7 years. We love the City. We love our neighborhood. And, we couldn't have wished for better neighbors. As with many San Franciscans, we sometimes have to deal with unfortunate events like burglaries and vandalism, but none of that has deterred our desire and hope to raise our 2 daughters (2 years old and 9 months old) in San Francisco.

On September 11, 2012, I was made aware of massive traffic changes occurring on Oak and Fell Streets between Baker and Scott. SFMTA had sent a letter saying they are proposing traffic changes to the intersection of Oak/Broderick and holding a meeting to discuss this. I didn't fully understand the flyer and no neighbor I spoke with knew anything about this, so I went to the meeting to find out more. It was during this meeting that I learned of 100 parking spaces in the area being removed to be moved to other areas. I learned about a bike lane with buffer at Oak (there are currently bike routes designated on Page Street 1 block parallel to Oak St that hundreds of cyclists use daily). I learned there is going to be a change in the intersection at Oak/Broderick to protect cyclists including giving cyclists the green light first and not allowing cars to go straight or turn onto Broderick. A ton of questions were going through my mind. Any of the numerous changes they discussed will have an enormous impact on our neighborhood. But, together, they all will greatly impact the quality of life for hundreds of families.

I applaud the City and SFMTA's efforts to add more bike lanes. Our family bikes to work downtown when we can, and we enjoy biking with our kids. However, as a parent it is too hard to take young kids on a bike or Muni. My Muni experiences have been challenging with 2 kids, stroller, diaper bag, going up the steps, staying away during rush hours, finding an area for all of us, keeping an eye on the kids, etc. I have concluded that I need to either walk or take my car. Now I'm facing increased congestion, less parking and safety concerns of bicycles flying as fast as cars on Fell/Oak... some with no regard to traffic lights. This directly impacts families like us who have children, and I feel as if none of us were contacted to share our thoughts.

I am extremely upset because I had no idea SFMTA was considering these massive changes in our neighborhood. I was never contacted. I was never sent anything until the September 11<sup>th</sup> meeting. I would have loved the opportunity to express our family's opinions, helped with ideas and planning (I have worked for Bridge Housing planning affordable housing for 8 years!), shared what was going on with neighbors and been a part of this process. None of the 5 families in our building knew anything about the proposed changes. Only a few of the 50+ neighbors I have spoken to knew anything about the proposed changes. This was also evident at the meeting on September 11. Around 25 people attended the meeting, and almost all also shared they were not made aware of the plans. We were told by Luis Montoya, SFMTA representative, that they had 1 community meeting earlier in the year; however, it was not publicized to any of us. Everyone at the Sept 11 meeting expressed wanting an opportunity for their ideas and voices to be heard.

Then, to my astonishment, I find out that there has been no independent impact or traffic assessment done and none pending. There is already so much traffic gridlock on Oak and Fell Streets that it seems an impact study should be a top priority. For Falletti's grocery store to be approved for development at Broderick/Oak, they had to do extensive third-party traffic plans and an EIR. All the people I've spoken to are not only upset we were never contacted for input, but we are not confident these traffic changes will be positive for residents, pedestrians, drivers and may be more dangerous for cyclists who are riding beside cars going extremely fast on the main thoroughfare going across our City.

I would like to share that my husband and I are not ill-informed residents. We care very much about the issues in our community. My husband and a fellow neighbor worked tirelessly with the community, City's Department of Children, Youth and Their Families and the SFUSD Board for over 2 years to convert a vandalized abandoned school building at 1155 Page Street into much needed childcare in the City. In May 2012, the school board approved the French American International School to provide preschool at the site beginning 2014. That is why it is even more perplexing how I could have not known about this proposal and been given an opportunity to provide feedback.

My family is doing everything we can to be able to raise our children here. I am embarrassed when I hear that it was announced earlier this year that recent census numbers showed San Francisco has the lowest percentage of children of any major city in the country at 13.4%. Major changes such as the one SFMTA is proposing should want to include feedback and ideas from everyone who wishes to be involved include cyclists, parents who have to walk or drive, residents who live around the streets, businesses impacted, and people who frequently use those thoroughfares.

We would like to request an independent impact study to be performed to make sure SFMTA have

taken into account how it will impact all of us who live here. I would also request for SFMTA to notify residents within a 2 block radius of Oak/Fell between Baker and Scott to be mailed notification of this project.

Thank you for your time.

Warm regards,

Jung O'Donnell

File 12/118

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**From:** sfpedestrians@gmail.com  
**Sent:** Thursday, December 06, 2012 11:36 PM  
**To:** Board of Supervisors; Lee, Mayor; Wycko, Bill  
**Subject:** Fell Oak Bike Lanes/Traffic Project - Vote No  
**Attachments:** Oak-Fell Bicycle Project - David Trinh.docx

Please include this letter from David Trinh in the Board of Supervisors packet for the meeting on Dec 11.

Thank you,

Jung O'Donnell  
San Francisco Pedestrian Coalition

Dear Mayor Lee,

I have learned about a bicycle lane which is possibly going through our neighborhood and eliminating a huge amount of parking. I am very opposed to the loss of parking in our Divisadero Street neighborhood.

I personally showed up at a "community" meeting to supposedly hear our neighborhood comments, but was not well publicized and held in another neighborhood, and of course, this was attended largely by the bicycle coalition. They were even provided room for a little sign-up stand outside the meeting area. I was quite upset at this obviously biased process and what I saw. The SF Muni Transit Authority is trying to appeal to bicycle advocates and quickly push through a proposal which will create hazards to those of us who live in the area. A Mr. Luis Montoya is running this process, but does not really want our input.

In addition with the proposed bicycle lane, both myself and my father, a soon to be senior citizen, would have to back up our automobiles out of our garage into a proposed bicycle lane. This is an accident waiting to happen. We already see how bicyclists fly down our street at vehicle like speeds without regard for safety. And if someone gets hurt, guess whose fault it will be?? We believe that funneling more bicyclists onto one of the most crowded sections of a major street is just creating opportunity for more accidents with motorists and pedestrians. The odds of accidents happening just increases with the increase of both in the area. If anyone is truly concerned with bicycle safety instead of politics they would understand this, and encourage bicyclists to ride in safe areas, with less cars not more.

Sincerely,

David Trinh  
1179 Oak Street  
San Francisco, CA 94117  
(415) 786-9273

005-11  
Cpaag

## Oak and Fell Street bike lanes

Joan Czaia [jczaia@hotmail.com]

Sent: Thursday, December 06, 2012 9:17 AM

To: Board of Supervisors; mtaboard@sfmta.com; Lee, Mayor; Wycko, Bill

Hi,

I'm writing about the proposed separated bike lane on Oak and Fell Streets. I live on Oak Street (across from the DMV) and am very interested in this project as it will affect my daily life. As a resident who will be directly impacted by the proposed bike lanes, I want to make sure the following concerns and ideas are not left out of this important discussion.

A major concern is loading/unloading on Oak Street. I live in a three-unit building, and like many of my neighbors, we do not have a garage. Currently, if I have to unload groceries and there are no parking spots available in the immediate area, I can park for a couple of minutes in front of a neighboring driveway that is rarely used. This process also works when people are getting picked up or dropped off. This close proximity is especially important for people with disabilities. And while double parking for a few minutes happens throughout San Francisco, it is not possible on Oak Street.

A separated bike lane would prevent such temporary parking which would be a significant hardship for residents. I heard that this concern might be addressed by having designated loading zones that are available with permits issued prior to loading/unloading items. This is an unacceptable and impractical solution for short day-to-day needs, such as those mentioned above. I think residents living in any neighborhood would object to the inability to load/unload items near their homes. I can also foresee potential conflicts/clashes between bikers and residents whose cars are legitimately parked in the bike lanes for a few minutes as bikers may feel cars should not be blocking the bike lane at any time.

Another concern which has been discussed is the removal of parking spaces in a neighborhood where it is already difficult to park, as it puts an unfair burden on neighborhood residents and their guests. While I support the addition of bike lanes in general and think the SFBC does great work, I think residents living in any neighborhood in San Francisco would object to losing a significant amount of street parking. For instance, it routinely takes at least 20 minutes to park in the evening and this will only get worse with the loss of parking spaces. Circling the neighborhood looking for parking for an extended time is not good for the environment or for one's sanity!

I am also concerned that removing the parking restrictions on the north side of Oak Street (currently 7am tow-away) will make parking in the immediate neighborhood even more difficult, especially if we do not have residential parking permits. I can often park here during the day, which is fairly convenient for loading/unloading items from my car, as there is 24-hour turn-over every weekday. If this restriction is removed, I can foresee cars and campers owned by people that don't live in the area staying parked in these spaces for several days which currently happens throughout the neighborhood.

Finally, I am concerned how the construction of a separated bike lane would impact or limit our



ability to have repairs and/or construction done at our property. Typically, property owners place temporary no-parking signs in front of their properties when work is being done on their properties so crews can access the job site. How would this work if there is a permanent bike lane in front of our property?

I would also like to bring up again a couple alternatives to the proposed separated bike lanes that may be an improvement over the current situation for both bikers and neighborhood residents.

Slow down traffic on Oak and Fell Streets and construct a bike lane on Oak Street similar to the bike lane that was recently removed on Fell Street. Cars racing along Oak Street get backed up a few blocks down from here when they are turning onto Highway 101, so having slower traffic all along Oak Street would not impact cars very much and would make the streets much safer for bikers and pedestrians. Also, it seems the most dangerous places for bikers along Oak and Fell Streets are at intersections where cars and bikes are making turns, not along straight-aways. Separated bike lanes would not improve the potential collisions between cars and bikes at intersections.

In addition to Oak and Fell Street bike lanes, a bike lane could be constructed on Hayes Street to accommodate bikers who don't feel comfortable biking on Oak and Fell Streets. The topography on Hayes Street between Baker and Scott Streets is similar to Oak and Fell Streets so bikers wouldn't have to climb hills getting to and from the Wiggle. Or bikes could get onto Page Street somewhere along the panhandle (west of Baker Street) where the grade from Oak to Page Street is less than it is on Baker between Oak and Page Streets.

While these ideas may be considered inconvenient to bikers and car drivers occasionally riding through the area, I hope you consider again the impact the separated bike lanes will have on people living in the neighborhood. The loss of access to people's homes living on Oak Street, (as well as the potential loss of business for neighborhood merchants due to parking issues) and the loss of a significant number of parking spaces in an area that where parking is already challenging should not be overlooked nor its impact minimized in bringing more bike lanes to San Francisco.

Sincerely,

Joan Czaia

BOS-11  
Cpage

**Oak & Fell Bike Lane Project**

Thor Hibbeler [thorhibbeler@sbcglobal.net]

**Sent:** Thursday, December 06, 2012 10:16 AM

**To:** Board of Supervisors

I am writing to oppose the Oak & Fell bike lane project, as currently assessed and configured.

Specifically, this project requires additional study of the potential environmental impacts by a 3rd party entity. Without this additional assessment the City will subject itself to potential litigation and likely end up having to perform this additional environmental work anyway.

Sincerely,

Thor Hibbeler  
1910 Fell  
SF, CA

**Oak/Fell Project**

Wendy Cook [wendycooks@gmail.com]

Sent: Thursday, December 06, 2012 3:23 PM

To: Board of Supervisors; Lee, Mayor; Wycko, Bill

Cc: Jung O'Donnell [jung\_yun@yahoo.com]

BDS-11  
Jay

File 121118

Dear Board of Supervisors and Mayor Ed Lee,

I am writing in the hopes that you will consider re-working the Oak/Fell bike lanes project in a way that accommodates pedestrians, residents, bicyclists and merchants - or, at the very least, consider de-accelerating the process to make a more careful assessment of its impact.

Currently, it seems that the only beneficiaries are bicyclists, and not necessarily bicyclists who live in the affected neighborhood – leaving the other three groups (pedestrians, residents and merchants) at a disadvantage. And as a reminder, the bicyclists who are benefitting from the arrangement are largely commuters, so these same three groups are the ones living with the consequences.

My largest objection, and one that has been voiced by others, is the lack of a standard, third-party, rigorous traffic assessment. The SFMTA conducted its own, but the SFMTA Board is not likely to reject the findings of its own study, is it?

I went to one of the neighborhood meetings led by the SFMTA office back in September, and I and many of the residents who came were very concerned about other traffic and parking factors that may have an impact on the Oak/Fell project, namely:

- the move of Alamo Square tourist buses to Fell and Divisadero
- the possible development of the DMV parking lot on Broderick and Oak
- the soon-to-open BiRite market on Divisadero and Hayes
- the increasing number of bars/restaurants on Divisadero

All the above are signs of a vibrant neighborhood, and it's one of the reasons merchants are moving in. But without ample parking, and with residents competing with shoppers for spaces, it's going to create more potential traffic problems with people circling the block (endangering pedestrians and bicyclists every time they have to circle), and diminishing the gain of the carbon footprint in this neighborhood.

Another issue I'd like to raise, since this is an extension of Oak/Fell bike lane discussion: there is a seeming trend of the SFMTA to put all its proverbial eggs into the Bike Coalition basket. I say "seeming trend" because we have heard of similar projects for Masonic, and also for Bush/Pine, and there are likely others. Here are my concerns:

1. What is the City's commitment to traffic throughput for cars? Cars are a fact of life in the City, and because we don't have a beltway, as many major metropolitan areas do, to get around the City, autos are forced onto surface streets to get North, South, East or West. Since the #1 issue is safety, perhaps there should be some designated routes that are autos only and bikes only?
2. By adding more and more bike lanes, the SFMTA is delivering on part of its mission of multi-modal transportation, but it seems that there should be a larger focus of improving services in underserved neighborhoods since not everyone who drives can exchange driving a car with riding a bicycle.

Thank you for your attention to this matter. I realize there is a meeting December 11 which I hope to attend to hear more about this project.

Sincerely,

Wendy Cook

File 12/11/18

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**From:** Stacey Thornberry [sfthornberry@gmail.com]  
**Sent:** Thursday, December 06, 2012 9:52 PM  
**To:** Board of Supervisors; MTABoard@sfmta.com; Lee, Mayor; Wycko, Bill  
**Subject:** Bike paths on Oak/Fell

Hello,

I received a flyer about the plans for SFMTA to remove lanes and take away parking on Oak/Fell to make dedicated bike paths. These streets are already quite congested during commute hours and parking is often difficult to find. I am concerned about the consequences of such a change.

Do you have any traffic studies on this change that I could read? I would like to become more educated on the decision.

In addition, have you seen the recommendation from the Haight Ashbury Improvement Association? I think it's a great alternative to the current plan. You can review at <https://sites.google.com/site/sfhaiasf/>.

Please let me know if you have any questions.

Best,  
Stacey Thornberry  
707-225-4071

File 12118

**From:** Hartley, Deane G 322 [Deane.Hartley@Cigna.com]  
**Sent:** Friday, December 07, 2012 5:10 PM  
**To:** Board of Supervisors; MTABoard@sfmta.com; Lee, Mayor; Wycko, Bill; Elsbernd, Sean; Chu, Carmen  
**Subject:** Consideration of the Fell-Oak Bike Lane Appeal

Dear, Mr. Mayor, Supervisors and members of the MTA Board:

I am writing as a concerned San Francisco resident and a cyclist who rides 8,000 miles per year including my daily west-east commute.

On Tuesday, December 11 the Supervisors will consider the appeal to suspend the Fell-Oak bike lane project until proper and mandated environmental and traffic studies are done. I ask that you grant the relief that this appeal seeks.

It is an affront to California's environmental protection laws that so many parking spaces would be removed from such a uniquely dense, traffic-packed, parking-poor district without first performing an environmental impact review as California law mandates. It doesn't require a PhD in environmental science to realize that parked cars with their engines off cause much less pollution than cars circling the neighborhood in search of street parking. And cars driving smoothly from point-to-point at constant speed through timed lights pollute much less than cars stopped, idling in traffic or driveways due to congestion and lane restriction. Let's face it; the ONLY way that the MTA's changes DON'T hurt the air quality is if several hundred cars and trucks suddenly disappear.

But the facts show that making the parking spaces disappear does not make the cars disappear! The MTA's own fact sheets indicate that while open street parking spaces in San Francisco declined by 12% since 2008 the number of cars and trucks registered in San Francisco declined only 1.3%. DMV statistics indicate that there are more cars and trucks in San Francisco now than there were a decade ago.

The Haight-Nopa district is one of a kind. A dense urban conglomerate of residences whose inhabitants need overnight parking, businesses that need high-turnover street parking until 2am, many schools and churches and a hospital that attract intense car-passenger drop-off activity at certain hours, all crisscrossed by not one but two through-street corridors, Masonic and Oak-Fell. It is unwise, indeed foolish, to make such substantial changes to the surface transportation landscape without first studying the impacts. And by inventing new, untried gimmicks like concrete planters in the middle of a thoroughfare the MTA is turning Haight-Nopa into its experimental laboratory and its citizens, resident and passing through, into its Guinea Pigs.

As an experienced cyclist I have to add that these changes will make my pedal commute through the Haight more dangerous than it has been. The most dangerous drivers on the road, for a cyclist, are those in search of parking spaces. Their tunnel-vision causes them to become close-calls waiting to happen. There will be more of them on the streets now.

Mr. Mayor and members of the Board, you have all sworn to uphold the laws. Before you California's most important environmental-protection statute is being completely disregarded by one of our city's own agencies. You have it within your power to correct this. I ask that you do so immediately, before the MTA arrogates more of Oak and Fell Streets.

Regards,  
Deane Hartley  
14<sup>th</sup> Avenue

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**From:** Board of Supervisors  
**Sent:** Monday, December 10, 2012 6:48 PM  
**To:** BOS-Supervisors; Lamug, Joy  
**Subject:** File 121118: Appeal of Fell/Oak Bike Lane Project - Tuesday, December 11, 4PM  
**Attachments:** Oak & Fell Bike Lane Opposition Letter.docx

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**From:** Metro Hotel San Francisco [info@metrohotelsf.com]  
**Sent:** Monday, December 10, 2012 3:11 PM  
**To:** Board of Supervisors; MTABoard@sfmta.com; Lee, Mayor; Wycko, Bill  
**Cc:** esoulis@aol.com; soulis929@aol.com  
**Subject:** Appeal of Fell/Oak Bike Lane Project - Tuesday, December 11, 4PM

December 10, 2012  
RE: Oak & Fell Bike Lane Plan

Dear Board of Supervisors & SFMTA Board Members,

My name is Shana Soulis, and my family owns The Metro Hotel located at 319 Divisadero Street between Oak and Page. My parents purchased the building in 1985 and have been running the business ever since.

We have had the pleasure of seeing the immense changes to our neighborhood over the last 27-years. However, I am gravely concerned about the implementation of the bike lanes and as a result a drastic reduction in parking spots.

Approximately, one-third of our business comes from the local hospitals (doctors, patients, family members of patients). Some of these guests are driving into San Francisco from the greater Bay Area and need to park in our neighborhood. Parking is already a coveted commodity and the thought if it becoming scarcer is inconceivable.

I implore you to consider the businesses in our neighborhood who have helped make this become a destination with their independently owned unique shops that draw customers from all over San Francisco. If we eliminate such a high quantity of parking spots it is likely the business will suffer as their customers will not make it into the stores or chose not to use alternative methods of transportation to get to us.

It is important that we explore all options such as other bike lane routes as Page & Hayes. Along with the environmental impact of the increased traffic, the hardship for business and homeowners who have garages on Oak & Page.

I want to thank you for your time and consideration. I hope before you finalize your decision that you take the time to speak with business owners and neighbors who feel very strongly against the implementation of the bike lanes on Oak & Fell.

Sincerely,  
Shana Soulis

# *the Metro Hotel*

319 Divisadero Street

San Francisco, CA 94117

p: 415.861.5364 | f: 415.863.1970

[www.metrohotelsf.com](http://www.metrohotelsf.com)



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**From:** Board of Supervisors  
**Sent:** Monday, December 10, 2012 6:50 PM  
**To:** BOS-Supervisors; Lamug, Joy  
**Subject:** File 121118: Oak/Fell Proposal

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**From:** kelly chen [kellyshupingchen@yahoo.com]  
**Sent:** Monday, December 10, 2012 4:59 PM  
**To:** Board of Supervisors  
**Cc:** MTABoard@sfmta.com  
**Subject:** Oak/Fell Proposal

To whom may it concern:

My name is Shuping Chen, the owner of Oakside Cafe which locates at 1195 Oak Street. I can't go to the appeal at Board of Supervisors tomorrow since I need to work. I have been working seven days a week since I own this cafe. I'm very concern if my green zone is removed, and it will be devastating financially. Between 7am and 10am there are peak hours for people stopping , running in and grabbing a coffee and go on. I can't image how many businiess will be lose if the green zone in front the cafe is removed. Putting a green line across the street will not solve that problem the driver's convenience has gone. I strongly against this proposal.

Sincerely  
Shuping Chen

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**From:** Board of Supervisors  
**Sent:** Monday, December 10, 2012 6:47 PM  
**To:** BOS-Supervisors; Lamug, Joy  
**Subject:** File 121118: SFMTA Fell & Oak Street Bikeways Project -- Planning Dept. Case No. 2011.0836E -- Appeal of Categorical Exemption  
**Attachments:** Letter to Pres. Chiu and Members of the Board.pdf

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**From:** Breaux, Rita M. [rita.breaux@pillsburylaw.com] on behalf of Van Buskirk, Ronald E. [ronald.vanbuskirk@pillsburylaw.com]  
**Sent:** Monday, December 10, 2012 2:50 PM  
**To:** Lamug, Joy  
**Cc:** Board of Supervisors; MTAboard@sfmta.com; Lee, Mayor; Wycko, Bill; Van Buskirk, Ronald E.  
**Subject:** SFMTA Fell & Oak Street Bikeways Project -- Planning Dept. Case No. 2011.0836E -- Appeal of Categorical Exemption

Dear Joy:

Attached is a letter from Mr. Van Buskirk to the Board of Supervisors regarding the appeal of the approval of the Fell & Oak Bikeway Project.

If you have any questions or concerns regarding the attached, please contact Mr. Van Buskirk directly at (415) 983-1496.

Sincerely,

**Rita Breaux** | Legal Secretary  
**Pillsbury Winthrop Shaw Pittman LLP**

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Tel: 415.983.1220 | Fax: 415.983.1200  
Four Embarcadero Center, 22<sup>nd</sup> Floor | San Francisco, CA 94111  
Email: rita.breaux@pillsburylaw.com  
[www.pillsburylaw.com](http://www.pillsburylaw.com)

Please note the new address for the SF Office



Pillsbury Winthrop Shaw Pittman LLP  
Four Embarcadero Center, 22nd Floor | San Francisco, CA 94111 | tel 415.983.1000 | fax 415.983.1200  
MAILING ADDRESS: P. O. Box 2824 | San Francisco, CA 94126-2824

Ronald E. Van Buskirk  
tel 415.983.1496  
ronald.vanbuskirk@pillsburylaw.com

VIA E-MAIL  
(joy.lamug@sfgov.org)

December 10, 2012

The Honorable David Chiu, President  
Board of Supervisors  
City and County of San Francisco  
City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: SFMTA Fell & Oak Street Bikeways Project  
Planning Department Case Nos. 2011.0836E  
Appeal of Categorical Exemption

Dear President Chiu and Members of Board of Supervisors:

Our firm represents the San Francisco Pedestrian Coalition (“Coalition”), an association of individuals concerned with vehicle, pedestrian and bicycle safety in San Francisco. The Coalition’s members are vitally concerned with the City’s future and seek to ensure that issues critical to residents, local businesses, and neighborhoods are put first as the City evaluates its plans for extending bikeways throughout the City. The Coalition supports a vigorous public planning and environmental review process to make certain that the City’s citizens and decision- makers have all of the information necessary to make informed decisions.

On October 16, 2012, the Board of Directors of the San Francisco Municipal Transportation Agency (“SFMTA”) adopted Resolution No. 12-129 approving the Fell & Oak Street Bikeways Project (the “Fell-Oak Project”), based on the San Francisco Planning Department’s October 4, 2012 determination (the “Determination”) that the project is exempt from the California Environmental Quality Act (“CEQA”), Public Resources Code § 21,000 et seq., under the Class 1 and Class 4 exemptions in the State CEQA Guidelines (“CEQA Guidelines”), 14 C.C.R. § 15,000 et seq.

On November 2, 2012, three members of the Coalition, Mark Brennan, Howard Chabner, and Ted Lowenberg (“Appellants”), appealed the decision of the SFMTA to adopt the Project without CEQA review. On December 3, 2012, Appellants filed a memorandum in support of their appeal to the Board of Supervisors. This letter serves to supplement that memorandum on behalf of the Appellants and the Coalition.

A. Project Description

The Fell-Oak Project is located in a densely populated residential, commercial and tourist area in the heart of San Francisco. Fell and Oak Streets together comprise one of San Francisco’s most vital and heavily trafficked East-West thoroughfares, carrying more than 60,000 motor vehicles per day on a combined basis. The Fell-Oak Project would make major changes on Oak, Fell, Baker and Scott Streets by replacing parking lanes with bike lanes; adding landscaped buffers, turn pockets, bulbouts, limit lines, and traffic signals; converting parallel parking to perpendicular parking; and removing commercial and passenger loading zones and bus stops. The project would result in approximately 101 lost parking spaces on Oak and Fell Streets.

These changes would cause numerous physical impacts to the environment, including direct changes to the roadway; impacts due to the buffers and raised planters used to separate bike and traffic lanes; parking losses; increased traffic; impacts to loading and unloading; potential safety impacts to bicyclists, drivers, and pedestrians; and air quality impacts.

B. The City Has Not Demonstrated Substantial Evidence That The Class 1 and Class 4 Exemptions Apply To The Project

In order to rely on a categorical exemption, a lead agency must provide substantial evidence that the project is within the exempt category. *Magan v. County of Kings* (2002) 105 Cal.App.4<sup>th</sup> 468, 475. Substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, or unsubstantiated opinion or narrative. CEQA Guidelines § 15384; *San Lorenzo Valley CARE v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4<sup>th</sup> 1350, 1390. In this instance, the City staff has not submitted substantial evidence that either the exemption in CEQA Guidelines § 15301 for existing facilities (“Class 1 exemption”) or the exemption in CEQA Guidelines § 15304 for minor alterations (“Class 4 exemption”) properly apply here.

The changes the Project would create are not “minor alterations” as required under both the Class 1 and Class 4 exemptions. In addition to moving the existing bike lane on Fell Street and creating an entirely new bike lane on Oak Street, the Project would add a buffer strip with raised, planted traffic islands where none exist; remove parking along one side of the street; reduce the number of travel lanes on Oak during morning rush hour; reduce the number of travel lanes on Baker between Oak and Fell; and add other turn lanes and traffic bulbouts which constitute major changes to the make-up of the project area.

The reasoning that the City has provided to suggest that the Fell-Oak Project falls within an exemption is based on speculation, assertion, and opinion, and thus does not constitute substantial evidence. The City speculates that reducing parking in the Project area will lead to fewer people driving, but provides no specific evidence to prove that reducing parking reduces vehicle usage. Common sense would dictate that eliminating so much parking could cause the opposite effect. The City also asserts that the Project will not hamper emergency vehicle access and that no pedestrian or bicycle impacts will occur as a result of the Project, but again provides no evidence, study, or even reasoning to suggest why this is the case. The City's traffic level of service intersection analysis contains no information regarding how the data was obtained, who obtained and analyzed it, and fails to provide the underlying data itself.

Fundamentally, the Determination is long on assertions and conclusions, but short on evidence and supporting information.<sup>1</sup> Bare assertion and speculation does not constitute substantial evidence that the Project will cause only minor changes in the Project area and thus the City has not demonstrated that use of an exemption is allowed under CEQA.

C. Cumulative Impacts and Unusual Circumstances Exist Which Preclude the Reliance on a Categorical Exemption

A finding that a categorical exemption applies cannot be sustained if there is substantial evidence of a fair argument that the Project will have significant environmental effects due to one of the exceptions in CEQA Guidelines § 15300.2. *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4<sup>th</sup> 1329, 1350. Section 15300.2 provides that the Class 1 and Class 4 exemptions are inapplicable "when the cumulative impact of successive projects of the same type in the same place, over time is significant" or where the exemption is "used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." CEQA Guidelines § 15300.2(b) and (c). Here, there is substantial evidence that the Project will have a significant effect on the environment due to both cumulative impacts and unusual circumstances. Once such evidence is identified, a local agency may not rely on a categorical exemption and must proceed to study the issue in a negative declaration or environmental impact report.

Cumulative Impacts. In addition to the Fell-Oak Project, the City is currently preparing and implementing numerous bicycle plans as part of the overall San Francisco Bicycle Plan

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<sup>1</sup> The Determination also seems to be a document at war with itself, reading more like an Initial Study than a notice of exemption. Projects that are exempt from CEQA require no analysis of potential environmental impacts, yet pages of the Determination and the Staff submittal address whether there would be traffic, safety, air quality, or other impacts. The Determination speaks of mitigation of the parking spaces loss, but then asserts that parking is not an impact cognizable under CEQA anyway. No study or other piece of supporting information is provided outside the four corners of the Determination itself.

Project. These repeating bike lane projects throughout the City clearly constitute “successive projects of the same type in the same place, over time.” *See Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4<sup>th</sup> 786, 740 (analyzing a project to put in priority parking zones in a City in connection with all other PPZs within the City). The Fell-Oak Project must be analyzed in conjunction with all of the other bicycle lane projects in the City. Because the cumulative effects of removing parking, traffic lanes, and modifying streets in all of these areas could cause significant impacts on traffic, air quality, and pedestrian safety, the Project falls within the exception to the use of a categorical exemption from CEQA.

In particular, the Fell-Oak Project, together with the Masonic Avenue Bicycle Lanes Project (“Masonic Project”) recently approved by the SFMTA Board, could have significant cumulative impacts. The Masonic Project is being implemented only three blocks from the Fell/Oak Project area, and the two areas are part of the same overall neighborhood. The Masonic Project would remove all street parking for over half a mile, eliminating 167 parking spaces; would reduce travel lanes on Masonic; and would make other major changes in the neighborhood. These changes have environmental impacts similar to those of the nearby Fell-Oak Project, including increasing traffic, and impacting air quality and pedestrian safety. Indeed, the Addendum for the Masonic Project states that, even with mitigation, it “would result in project specific and cumulative significant and unavoidable operational impacts to traffic and transit services.” *See* San Francisco Planning Department, Addendum to Environmental Impact Report, Case No. 2011.0935E, June 28, 2012, pg. 11. Taken together, the significant and unavoidable impacts from the Masonic Project and the Fell/Oak Project could be cumulatively significant, but the Determination made no effort to address this issue.

Unusual Circumstances. In addition, there is substantial evidence that there are unusual circumstances surrounding the Fell/Oak Project which could lead to significant impacts. Among other things, the project consists not only of adding or relocating bike lanes, but of adding buffer strips with raised planters to separate bike lanes from traffic lanes. To our knowledge, no other bike plan in the City has added these types of raised planters and thus their impact and potential operational dangers to cyclists is unknown.

While the Determination asserts that driveway access for residential and commercial uses will remain to cut through the buffer zones, the Determination does not deal with the safety issue of cars backing out of and blocking the bike lanes, hampered by the fixed planters, except in the most conclusory way. No scientific study of the potential safety issues by any outside consultant is presented.

Furthermore, the Project area has a high concentration of unique uses such as a large senior center, numerous churches, and one of the only prosthetic-orthotic medical providers in the City, and thus the necessity for available parking and commercial and passenger drop-offs is more significant in the Fell/Oak Project area than in other parts of the City.

The Honorable David Chiu, President  
Board of Supervisors  
December 10, 2012  
Page 5

D. The City Has Improperly Piecemealed the Fell-Oak Project from the San Francisco Bicycle Plan

The Fell/Oak Project is part of the greater SF Bicycle Plan for which a programmatic EIR has been prepared and certified. However, that EIR is under challenge in litigation and thus its sufficiency under CEQA remains in question. Because the Fell/Oak Project is obviously part of the greater plan to create bike lanes in the City, CEQA analysis for the project should be done only in conjunction with the EIR for the SF Bicycle Plan Project, not piecemealed from the larger project through reliance on an exemption as if the larger project did not exist. *See Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 47 Cal.3d 376. The Determination made no effort to address the Fell-Oak Project in the larger context of the City-wide bicycle project. Moreover, if the programmatic EIR for the SF Bicycle Plan Project is held inadequate, necessarily the CEQA exemption for the Fell/Oak Project would be insufficient as well.

In conclusion, we request that the Board of Supervisors grant the appeal, set aside the Determination, and return the matter to the SFMTA for further CEQA review. Any steps being taken by the SFMTA to implement the project should be halted as well.

Very truly yours,

Pillsbury Winthrop Shaw Pittman LLP



Ronald E. Van Buskirk  
Partner and General Counsel

cc: The Honorable Edwin Lee, Mayor ([mayoredwinlee@sfgov.org](mailto:mayoredwinlee@sfgov.org))  
Bill Wycko, Environmental Review Officer, San Francisco Planning Department  
([bill.wycko@sfgov.org](mailto:bill.wycko@sfgov.org))  
The Board of Directors of the San Francisco Municipal Transportation Authority  
([MTAboard@sfmta.com](mailto:MTAboard@sfmta.com))

## **FW: Oak and Fell Project Hearing December 11**

Board of Supervisors

**Sent:** Tuesday, December 11, 2012 12:07 PM

**To:** Nevin, Peggy

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**From:** Steve Weibel [sweibel@gmail.com]

**Sent:** Monday, December 10, 2012 12:44 PM

**To:** Robert Venchiarutti

**Cc:** mtaboard@sfmta.org; Lee, Mayor; Board of Supervisors; Wycko, Bill

**Subject:** Re: Oak and Fell Project Hearing December 11

I to live on Fell@Scott with small children and a bay window of the bike lane. I also bike to work everyday to Potrero.

The new plan is bad.

Cars are driving faster since it feels like a four lane highway. Cars now swerve into the bike lane as if it's an off ramp to make their left turns.

From the corner of scott&fell it's only a few car lengths before a very confusing & dangerous flip flop of bikes and cars. The cars swerve in to line up for ARCO and the line is much longer.

Fell is now a freeway. Faster. Uglier. Dangerous. The argument that it's better for tourists and beginners is silly. I just returned from Amsterdam and they don't sacrifice parking and they don't encourage you to ride on their three lane thoroughfares. They encourage you to ride on the pretty quieter streets with many bike lanes and i thank them for that. Fell isn't going to be a tourist attraction. But a few feet of hill and you have great bike lanes on quiet gorgeous streets. The incline of Golden Gate Park is as steep as what we are discussing and it's very rideable.

Please don't do this to our neighborhood.

Thank you

Stephen Weibel.

When I ride to work, I very happily go a block out of my way - up a minor incline to ride down 17th rather than 16th. It's nicer. Safer. A better experience and well worth a few extra pedals.

Sent from my iPhone

On Dec 10, 2012, at 11:11 AM, Robert Venchiarutti <[rvench@sonic.net](mailto:rvench@sonic.net)> wrote:

To the Honorable Mayor Lee, Supervisors, MTA Directors and Mr. Wycko,



I am writing to express my family's strong opposition to the current Oak and Fell Bike Lane Project. I have lived in San Francisco for 22 years, and lived in the Alamo Square Park neighborhood for 17 years. My family lives at the corner of Fell and Scott, my wife and I both work, and we have 2 children, ages 7 and 4 who go to 2 different schools (one is in preschool, the other elementary school). We need access to street parking to maintain any semblance of quality of life - it really is as simple as that. But even more important is preserving safety for our children and pedestrians at what are now some of the busiest and most dangerous intersections in the City. We are not against bike lanes, but we are against the current plan which encourages thousands of bicyclists to literally ride next to 3 lane highways in the City, and which rather than removing a traffic lane, removed 90 parking spaces permanently.

The current bike lane plan was the only one of the 5 original options considered that permanently removed about 90 spaces from the heart of our neighborhood. The other options preserved parking for at least over night parkers and/or slowed down traffic on Fell and Oak. Nevertheless the worst option for residents was chosen in terms of parking and safety. Now literally thousands of bicyclists are being encouraged to ride adjacent to 3 lane highways where cars routinely travel at 40-50 mph. Bikes and cars do not mix well. And that creates a dangerous environment for pedestrians. In terms of parking, although some mitigating measures have been put in place, they benefit folks who live many blocks away from the effected area more than they do residents who live within one block of Fell and Oak.

There were obvious alternatives that need to be reconsidered for the safety of pedestrians and bicyclists and for quality of life of residents. First, please consider having the bike lane go down Page to Baker street to and from the panhandle. Page could easily be turned into a one lane road for cars, and the rest could be devoted to a very large bike lane and still preserve parking on those quiet side streets. The other alternative is to have bicyclists go north and south on Scott to Hayes street, and then turn down Baker to the panhandle.

Keeping bikes on side streets is simply safer for everyone, and those streets can for a few blocks be turned into one way roads which should provide ample space and safety for bikes while keeping local traffic moving and preserving parking for residents and businesses in the community. If one of these options is chosen, then the 3 lane highways on Oak and Fell can still be used to move traffic from east to west as designed.

I believe the bicycle coalition types object to this because these alternate streets have a small hill. Think about that for a second. We live in the hilliest city in the US, and a 20 foot hill on Page/Baker or a 15 foot hill on Scott between Hayes and Fell is too much to ask of bicyclists in exchange for a larger and safer bike lane for them and for residents? In fact, isn't there a plan to extend the bike lane on Masonic, which has many more and much steeper hills to climb?

The other alternative is to put in place one of the other 4 other original proposals that were considered for this bike lane project. Any of them would strike a much sounder compromise of all the interests at play in our neighborhood.

Finally, please make safety the greatest priority. Not just for bicyclists but for pedestrians.

As you know, the vast majority of bicyclists make illegal turns on Scott and Fell streets, and this is oftentimes in the face of cars trying to make left handed turns onto Scott street.

The SFMTA installed a left hand turn signal to address this, but it simply doesn't work - 80 percent of the bicyclists just ignore the signal anyway. My greatest concern is for the safety

of my children as we wait on the sidewalk for the light at this intersection, while 3 lanes of cars speed down the hill on Fell, and literally dozens of bikes make illegal left hand turns (in the dark this time of year with the shorter days) on to Fell street. Please work to make this particular intersection safer for all of us regardless of what the final plan is.

Thanks.

Robert Venchiarutti  
Pia Angelikis  
1116 Fell Street  
SF, CA 94117

P.S. If the current plan remains in place, please consider some of the thoughts I expressed in my email below. As I say below, the larger point is that you can't intentionally place thousands of cars and thousands of bikes in close proximity without making things much more dangerous for everyone, especially pedestrians. The greater risk needs to be mitigated in some way.

Begin forwarded message:

**From:** Robert Venchiarutti <rvench@sonic.net>  
**Date:** October 20, 2012 10:41:50 AM PDT  
**To:** "Montoya, Luis" <luis.montoya@sfmta.com>  
**Cc:** Stephen Weibel <sweibel@gmail.com>, Pia Angelikis <angelpi@sonic.net>  
**Subject:** Re: Oak and Fell Project Hearing October 16th

Hi Luis,

I wasn't able to attend the hearing, but I wanted to share my thoughts on ways to improve the proposal. First I want to thank the SFMTA for making some attempts to mitigate the loss of so many parking spaces for residents. As I explain below, I really hope more can be done. Basically, my comments relate to trying to find more parking for residents and to making sure the intersections, particularly the one at Fell and Scott, are as safe as possible. More parking helps my family maintain some semblance of quality of life - but the more I live with the increased bike traffic, the more my concerns deal with the basic unsafe conditions that have been created for pedestrians and our children.

### Parking

Please consider (or reconsider) making Pierce Street a one way street between Hayes and Fell, and installing perpendicular parking on the east side of Pierce street. There is very little traffic on that stretch of road (I have lived here for 18 years, and it is easily the least traveled stretch of road in this neighborhood). Furthermore, Pierce Street between Fell and Oak is already a one way street with perpendicular parking. Seems like a "no brainer" way to add about 10-12 spaces, and further mitigate the removal of so many spaces from our neighborhood.

### **Bulb Outs Are Unsafe**

The bulb outs place pedestrians, children and dogs closer to what is essentially a 3 lane highway in the middle of our City. As you know, it is the natural inclination of all people to stand either at the edge of a sidewalk, or oftentimes, right on the street, adjacent to the raised sidewalk behind them. Without the bulb out, there is a 6 foot buffer between a person and the traffic. The bulb outs place people directly on the edge of one the busiest/fastest streets in all of SF. One mistake by a child, a dog, a pedestrian, one slight swerve from a car, etc., and there is no longer a 6 foot buffer of protection. Also, because of our proximity to Alamo Square Park, there are hundreds of tourists on bikes and on foot in our area - strangers to navigating these busy intersections. There is no margin for error, by a tourist, a child, a dog, or anyone driving down Fell and Oak. I have 2 small girls. Many of my neighbors have small children. These bulb outs are dangerous. It is as simple as that.

I know that bulb outs have been placed in other locations, but none of those roads are anything like Fell and Oak in terms of the speed and the volume of traffic. And even on those bulb outs, it is easy to see marks and chunks of concrete missing where cars, trucks, etc. collide with them.

These comments are particularly true for the bulb out proposed on Fell and Scott. This is one of the most dangerous intersections in the City. Cars routinely drive down the hill at 40-50 mph. Now, we literally have thousands of bikes making left hand turns against the red light (illegally), and traffic coming down Fell street that often turns left on Scott. The single most dangerous maneuver, as you know, is a left hand turn against traffic. Here, we have cars and bikes making left hand turns simultaneously. I have seen/heard about 6 minor collisions in the last couple of years, and I have personally witnessed many more near misses - no collisions, but screeching brakes, swerving bikes and cars, angry exchanges, etc. Someone will be very seriously hurt at Fell and Scott. It is simply a matter of time. You need to keep pedestrians out of harms way as much as you possibly can. The bulb outs do the exact opposite.

So please, there is no need for the bulb outs. More concrete does not beautify anything. But even if it did, placing people literally inches away from these busy roads places us all at risk for very serious injury.

### **Final Thoughts on Scott Street Safety**

Finally, if the SFMTA is actually concerned about safety and safe intersections, now that it's design is funneling thousands of bikes on 2 of the few 3 lane highways in SF (rather than simply keeping that traffic on Page, a quiet side street, for example, with only one small hill), it should consider turning Scott between Fell and Oak into a one-way street. That would prevent cars coming down Fell from being able to make left hand turns on to Scott street, making it safer for bike to turn left on to Fell from Scott. That would make the intersection safer for the rest of us as well.

The larger point is that you can't simply place thousands of bikes and

thousands of cars in close proximity without making things very dangerous for everyone, especially pedestrians, *UNLESS* you also take measures to slow down traffic and/or limit options for vehicles and bikes in terms of turns they can make or directions they can drive in. The left hand turn signal on Fell and Scott is an attempt to manage this risk, but as you know, 90% of bicyclist make an illegal left hand turn against the red light. In other words, the light *DOES NOT* in any way mitigate against the risks at this intersection that I have described. More needs to be done, and unless you plan to place a cop there 24/7, simply relying on that left hand turn signal to keep us safe is reckless and negligent planning. Someone will get hurt unless more steps are taken to mitigate against these risks; these measures must be based on the reality that bikes do not follow the rules of the road or traffic signals like cars and pedestrians do.

That is why the best option was to remove a traffic lane on Fell and Oak, and replace them with the dedicated bike lanes. Yes, traffic would slow down, but that is the cost for the benefit of the bike lane, and for maintaining safety for everyone. Unfortunately, it looks like that is no longer an option on the table.

Thanks.

Robert Venchiarutti  
Pia Angelikis  
1116 Fell Street  
SF, CA 94117

On Sep 28, 2012, at 5:27 PM, Montoya, Luis wrote:

Hello,

On Tuesday October 16th the Oak and Fell Pedestrian and Bicycle Safety Project will be presented to the SFMTA Board of Directors for consideration of approval of parking and traffic changes. SFMTA staff will give a brief presentation, and members of the community will be given an opportunity to share their comments with the Board. We have received hundreds of email and phone comments to date, and we will summarize that feedback for the Board as well as the feedback collected throughout the planning process. Thank you for sharing your input as we strive to make San Francisco's streets safer and more inviting for all who choose to walk and ride a bicycle.

**SFMTA Board of Directors Meeting**

**Date:** Tuesday, October 16, 2012

**Time:** 1:00 PM

**Location:** City Hall Room 400

**Van Ness Ave. , between McAllister and Grove**

The final proposal includes bikeways that are adjacent to the curb and separate from motor vehicle traffic, corner bulbouts to shorten the

pedestrian crossing distance, crosswalk enhancements and intersection "day lighting" to improve the visibility of pedestrians, and traffic signal changes to slow vehicles., The SFMTA acknowledges that converting on-street parking to separated bikeways and pedestrian bulbouts along these three blocks of Oak and Fell is an inconvenience to some residents and businesses. We are proposing measures to replace roughly half of parking spaces on nearby streets, with a net change of roughly 50 parking spots, or about 5% of the parking supply within a one-block radius of the project. Please visit our website to review the full proposal ([www.sfmta.com/OakFell](http://www.sfmta.com/OakFell)).

If approved, bikeways and crosswalk enhancements could be implemented by the end of the year, and corner bulbouts and plantings could be installed by Summer 2013.

Project website: [www.sfmta.com/OakFell](http://www.sfmta.com/OakFell)  
SFMTA Board of Directors  
information: <http://www.sfmta.com/cms/cmmta/mtaindx.htm>

Regards,

Luis Montoya  
SFMTA | Municipal Transportation Agency  
Phone: (415) 701-4376  
[www.sfmta.com/livablestreets](http://www.sfmta.com/livablestreets)

<image001.jpg>

File 12/11/8

**From:** Renee-Nicole Kubin [rnkubin@mac.com]  
**Sent:** Tuesday, December 11, 2012 3:17 AM  
**To:** Board of Supervisors; mtaboard@sfmta.com; Lee, Mayor; Wycko, Bill; Montoya, Luis  
**Subject:** Fell/Oak Appeal TODAY

To All, To Anyone,... who will hopefully, and most importantly, truly LISTEN,

Unfortunately, I did not know about the appeal scheduled today (12/11/12, @4pm), regarding the Fell/Oak changes, until yesterday (12/10/12).

If I had known, I would have changed my work-schedule so that I could have attended this hearing. Now, I must hope that You will not only read, but also give thoughtful consideration to this email.

If not for the information passed on to me by the owner of my local corner-store at Fell & Divisadero, I never even would have known there was a meeting today - An appeal at my local San Francisco City Hall, one that directly concerns me and my family.

As a long-time resident of Fell Street at Divisadero, I would have expected to receive SOME sort of notice of an appeal being held today regarding the Major issue at hand. At very least, I would have expected to see flyers posted to light/traffic poles....

There is no doubt that there are many other local residents just like me - people who LIVE and WORK here, people who LOVE San Francisco and want to be a part of their community. There is sure to be a vacuum at today's appeal where there should be voices...

Neither residents, nor businesses have been properly notified of the details of this MAJOR proposal - not ever. We have NOT been informed of most hearing dates (only 1 via USPS mail, actually), let alone given information regarding the outcome(s).

And now - today, there will be a "hearing", supposedly held for the many who have lost their business loading zones, or their parking spots after work, or their driveways, a hearing for the many who are now dealing with increased traffic, increased pollution, and for those who have encountered unsafe situations as pedestrians, over the many, many blocks of these MAJOR thoroughfares in S.F., at present Fell Street, in order for the City to create extra-large bike-lanes where bike-lanes already exist.

Lack of notice(s) and communication has been the norm regarding various issues in this neighborhood recently. For example, the new Tour-Bus loading/unloading Zone was quickly approved - to begin, on a 6 month trial basis on Fell Street at Divisadero...

Now, in addition to the bike-lane issue, there is another major issue that has been approved (upon inquiry to 2 of the recipients of this email, I was told that different City employees were assigned for each issue - i.e., the right hand doesn't know what the left is doing)...

A major tour bus-zone, now located on a major street, that is located many blocks away from it's previous landmark destination - ultimately, the destination of many now confused tourist-visitors: The Famous Alamo Square.

The already dangerous intersection of Divisadero and Fell just became far more dangerous. Much, more dangerous since confused visitors have been let off their busses, then trying to find their way to The Painted Ladies... Now they are now part of this Bicycle Equation... Even more so now that approved "safety bulb-outs" to protect Pedestrians have been nixed for a larger bike-lane.

Subsequently, MAJOR changes on our streets have been pushed through - expedited, actually. A great example of this would be the Board's quick approval to move forward IMMEDIATELY on expanding the existing Fell Street bike lane. Local residents had no idea of the major changes taking place over the weekend that followed said approval. Residents were not informed. Some were traveling, leaving their vehicles parked as usual, knowing they would return before receiving a parking citation on street-cleaning day (formerly every Thursday morning), only to find that their cars had been towed away!

At a recent Board Meeting I inquired (but was never answered - not even after I emailed this question)? -

\*\*\*\*Has the City performed a traffic/ pollution impact study?\*\*\*\*

I even offered to submit photos and videos taken within a single-week's time so The Board might review them and see the reality of the streets/people impacted. Other than an "auto-reply", I have never heard back.

HOW have we not considered Pedestrian Safety, Pollution, Traffic, ..?

It is now obvious by the City's actions of (or, lack thereof), that the City of San Francisco had already made their decision long before it was an issue for the "consideration" of the residents & businesses that may be impacted. It has been apparent from the start of this "proposal" that the City's decision was already made.

Perhaps if The Residents were to form a coalition..? The bicycle coalition is so united and powerful. Often members are not even local, or, they do not even know what they are supporting, yet, by virtue of sheer numbers, THEY are heard.

But WHY?

The residents affected are of no or little concern. The businesses... well, there are so few to consider on the 2 streets directly impacted (those that actually have an address on Fell or Oak Streets), that the City has gotten away with not considering the many "neighborhood" businesses.

And, aren't neighborhoods are what our City is all about?

Instead, what seems to matter - as said repeatedly by City representatives at every meeting regarding this issue (I've attended them all until today's "appeal"), is "Making San Francisco a 'bike-friendly' City".

San Francisco IS a Bike-Friendly City! Key word: CITY.

One MUST ask, WHY use Fell and Oak (Tens of thousands of vehicles per day), when Hayes and Page are so much safer?

To create a "new" - in reality, a larger - bike-lane, where one has long existed.

So lots of people will SEE it once it has been completed?  
Rather than safer streets for all - pedestrians, cars, AND bicycles?

Fell and Oak Street are virtual freeways that connect our City?  
We have very few such street, unlike most cities.  
And yes, we live in a MAJOR CITY.

Why wasn't THIS option at least considered?  
<https://sites.google.com/site/sfhiasf/>

We actually need a few thoroughfares - like for trucks to deliver gasoline to the THREE gas stations along Oak/Fell & Divisadero. Or, the Tow-Truck business next-door to a gas-station....

And, there REALLY ARE BETTER options for safe-cycling.

Lastly, my sincere apologies for ranting...  
Again, I just heard about the appeal - cannot attend, and I am so strongly opposed to this...

Thank you for your time and consideration.

Sincerely,  
Renée-Nicole Kubin



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**From:** Board of Supervisors  
**To:** BOS-Supervisors  
**Subject:** File 121118: Supporting the Appeal of Fell/Oak parking-removal project.

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**From:** Dillon, JJ [<mailto:jdillon@Advent.COM>]  
**Sent:** Tuesday, December 11, 2012 3:14 PM  
**To:** Board of Supervisors; Lee, Mayor; Wycko, Bill; [MTABoard@sfmta.com](mailto:MTABoard@sfmta.com)  
**Cc:** [jjd610@hotmail.com](mailto:jjd610@hotmail.com)  
**Subject:** Supporting the Appeal of Fell/Oak parking-removal project.

Hello All,

I am writing in support of appealing the Fell/Oak parking-removal project. I have been in San Francisco since 1994 when I left the United States Marine Corps to attend college at the University of San Francisco. Since then I have lived in all parts of the city and currently am celebrating my 13 year with a company that headquarters are in San Francisco. Last year I bought my first home/condo in San Francisco on Blake Street and was shocked to learn how little the City values the input of home owners. I do believe in creating safe alternative transportation options in SF but they must be fully studied and taken in whole not forced through in pieces where the City claims full study and environmental impact is not needed. This project combined with the Masonic project will have a major impact on the neighborhood. The city should be held to the same standards as it hold business when deciding what will and will not be built and planed in the City.

On top of this was this really the best plan. To put bikes on some of the busiest roads in the City. What about other streets that are less busy and would likely be much safer. I understand there is a meeting tonight at City Hall to discuss this mater and I look forward to attending.

Thank you,  
J.J. Dillon.

J.J. Dillon  
Senior Consultant Level II  
Advent Software  
600 Townsend ST 5<sup>th</sup> Floor  
San Francisco, CA  
94103

Send

Options... HTML

To...

BOS-Supervisors; Lamug, Joy

Cc...

Subject:

File 121118: Another resident letter for Oak and Fell Project - Please vote No

Attached:

Oak-Fell Bicycle Project ~1.docx (15 KB) [Open in Browser]

Tahoma

10

**B I U**

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**From:** sfpedestrians@gmail.com [sfpedestrians@gmail.com]  
**Sent:** Thursday, December 06, 2012 11:37 PM  
**To:** Board of Supervisors; Lee, Mayor; Wycko, Bill  
**Subject:** Another resident letter for Oak and Fell Project - Please vote No

Please include this letter from Trung Trinh in the Board of Supervisors packet for the meeting on Dec 11. If you have any questions, please contact us.

Thank you,  
Jung O'Donnell  
San Francisco Pedestrian Coalition

Dear Mr. Mayor,

I am writing to appeal to the good judgment and honor of our honorable Mayor, Edwin Lee, of whom many of us are very proud. Chinese residents and small businesses of the Oak Street/Divisadero area would like to direct your attention to a matter which causes us great concern. Those of us have lived or worked in this area for decades have seen it go through difficult times. For years this was considered anything but a premium neighborhood, and it is finally seeing the beginnings of a turnaround and we certainly want to encourage that trend. Unfortunately, the development in our neighborhood is being impacted by a very shortsighted proposal introduced by Luis Montoya of the SFMTA who really doesn't care about us, and he has so stated, "I am not concerned about the neighborhood, but am concerned only with the greater good". Mr. Montoya in that regard is true to his words and introduced a proposal which will eliminate a large amount of parking and encourages bicycles to ride through already busy and congested streets. No genuine consideration has been given to the impact on the lives of residents of the area, especially those such as myself who are advanced in age, and he has done nothing but try to discourage us from speaking out. One of my Chinese neighbors even sent him a letter and he surprisingly told her that she was the only person who opposed his proposal, despite the fact that hundreds of people in the area (including ourselves have signed petitions in opposition). Apparently, he was to dissuade her from further speaking out. Why is Mr. Montoya trying to silence us? Why is he trying to run this proposal through the City without listening to us? The reason we think is that he knows that his proposed substantial loss of parking will hurt our developing neighborhood, but doesn't want that to be brought to anyone's attention.

We therefore appreciate your anticipated personal look at this matter and fixing what we feel has been a terribly handled and skewed process since the outset. Mr. Montoya's agenda seems to be only to get this proposal pushed through without truly wanting to get input from the people who live or work here. That needs to change.

Sincerely,

Trung Chi Trinh  
1177 Oak Street  
San Francisco, CA 94117

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**From:** Board of Supervisors  
**Subject:** File 121118: Please don't remove lanes/parking on Oak!

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**From:** Matthew Hardy [mailto:mhardy86@gmail.com]  
**Sent:** Monday, December 10, 2012 8:01 PM  
**To:** Board of Supervisors; [MTABoard@sfmta.com](mailto:MTABoard@sfmta.com); Lee, Mayor; Wycko, Bill  
**Subject:** Please don't remove lanes/parking on Oak!

To whom it may (hopefully) concern,

I live at 1179 Oak St (Broderick & Oak). I **adamantly** disagree with the SFMTA's proposal to remove lanes and parking on Oak Street. I take Oak to my office every single morning and traffic is always moving at a steady space -- never a problem. Adding more lanes is completely unnecessary to impact traffic flow. If the idea is to add bike lanes, there are already dedicated bike lanes 1 block over.

**PLEASE** don't further pollute our streets and compromise our safety (not to mention parking headaches) just for another opportunity to generate revenue in the form of parking tickets and towing.

Respectfully,  
Matthew Hardy

File 121118

**From:** Helen Cleary [hncleary@gmail.com]  
**Sent:** Tuesday, December 11, 2012 9:37 AM  
**To:** Board of Supervisors; MTABoard@sfmta.com; Lee, Mayor; Wycko, Bill  
**Cc:** sfpedestrians@gmail.com  
**Subject:** Oak/Fell SFMTA Bike lane project appeal

To Whom It May Concern,

I am a resident at 1303 Fell Street and am unable to attend the appeal meeting today regarding the recent bike lane project at Oak and Fell because I have to work; please accept this email on my behalf.

I am appalled at the recent bike lane addition on Fell. The fact that bike lanes on Page and Hayes already exist and the lack of an official safety/traffic study clearly indicate a poor city decision. My career is in aviation safety, specifically, regulatory compliance and I can't believe the city would make such a decision subjecting both cyclists and drivers to the current unsafe condition. I drive down Fell and Oak daily for my work commute and do not see the benefit to either parties. In addition, I've reviewed the proposed alternative plan by the Haight Ashbury Improvement Association and it makes perfect sense. Oak and Fell are high traffic thoroughfares and designating a bike lane creates a false sense of safety to both cyclists and drivers.

As stated, I am a resident and driver in this neighborhood. I pay car registration fees, taxes, and support my local businesses. I feel I have been discriminated against by the city in support of cyclists that do not register their bikes, pay licensing fees, or live in this neighborhood. My city funds have been used inappropriately to institute a bike lane that neither improves my quality of life or personal safety. In fact, it does the opposite.

I fully support the appeal to remove the bike lane on Fell Street and stop additional bike lanes on Oak.

Thank you for taking the time to hear my opinion on the matter and please contact me for further comment.

Kind Regards,

Helen Cleary  
1303 Fell Street  
San Francisco, CA 94117

Feli 12/11/12

**From:** Daniel Tomasevich [dtomasevich@gmail.com]  
**Sent:** Tuesday, December 11, 2012 2:12 PM  
**To:** Board of Supervisors; MTABoard@sfmta.com; Lee, Mayor; Wycko, Bill; Elsbernd, Sean  
**Subject:** Fell, Oak bicycle project appeal consideration

Dec. 11, 2012

Dear Mayor Lee, MTA Board, Sean Elsbernd, Bill Wycko,

I would like the Board of Supervisors to stop all construction of the Fell/Oak Bicycle project until proper reviews are conducted.

Residents, people with disabilities have always parked near their homes in the Fell/Oak St. area. The bicycle project removed curbside parking on Fell and Oak Streets. Residents will not be able to unload groceries, enter or exit their vehicles since they will be blocking the bicycle lane. Plumbers, painters, roofing and other contractors cannot park to do work on houses and apartments.

Removing 55 parking spaces in a highly densely area, without offering anything in return is not fair. Vehicles will spend even more time circling the area to find parking, congesting traffic, polluting the air.

In my view the Dept. of Planning made a serious error by stating the Fell/Oak Bicycle project is exempt from an environmental review.

Installing new bicycle lanes along the curb that were not previously there, removing street parking that was always present, installing new planter boxes are not minor changes. Therefore CEQA guideline 15301 (c) was violated.

There is no right of way for bicycles on Fell or Oak Street along the curb where vehicles were parked. CEQA guideline 15304 (h) was also violated.

The 35,000 vehicles who drive each on Fell St and Oak St, all residents of Fell St. and Oak St. did not request the redesign of their streets that put them in a worse position than before.

Page St. is a more quiet, safer route to take for bicycles than Fell St. and Oak. St. Please look at the HAIA proposal.

MTA can find a middle ground for both residents and bicyclists. This one sided approach shows the city government favors special groups and does not treat all residents with equal respect.

Sincerely,  
Daniel Tomasevich  
San Francisco

File 121118

**From:** Sa Alissa Chiaravanond [hybridpicturesllc@gmail.com]  
**Sent:** Tuesday, December 11, 2012 1:33 PM  
**To:** Sa Alissa Chiaravanond  
**Subject:** Please take Action to Protect the Safety of Pedestrians.

To Whom it May Concern:

On April 9<sup>th</sup>, 2012 at approximately 8:30pm at the intersection of Oak and Divisadero in San Francisco, I was in the crosswalk with the green light. As I was in the crosswalk my colleague had to pull me out of the way of two bicyclists who were going down the hill at great speed, without any lights. They went through the red light and never had any intention of stopping. There were three witnesses who saw this. All said that this is a common occurrence. It all happened so fast, and I could have been seriously injured if not killed, especially considering their speed.

This incident was reported to the City of San Francisco, but no one in the City took any action or provided any response.

I just have learned that the City of San Francisco is now adding to this dangerous intersection by encouraging more bicyclists to use Oak Street, apparently condoning it with bike lanes. I am amazed that the City is apparently disregarding safety issues, is making the City an unsafe place for pedestrians and treating bicyclists as they are above the law. It is not a welcome thought that people cannot be safe in crosswalks in San Francisco. I am sure that I am not alone in that regard.

Please accept this email as my strong urging that City of San Francisco do something to prevent experiences like mine described above from happening.

I would appreciate receiving a prompt response.

Sincerely,

Alissa Chiaravanond

*CEO, Hybrid Pictures  
1976 S. La Cienega Blvd. #315  
LA. CA 90034*

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BOS-11  
CWB  
Orig. - File  
✓ C Pages

FROM:  
Mary Miles (#230395)  
Attorney at Law  
for Coalition for Adequate Review  
364 Page St., #36  
San Francisco, CA 94102  
(415) 863-2310

TO:  
Angela Calvillo, Clerk, and Members of the  
San Francisco Board of Supervisors  
City Hall, San Francisco, CA 94102

**BY HAND DELIVERY AND E-MAIL**

DATE: December 11, 2012

RE: Board of Supervisors Agenda of December 11, 2012, Item #11: Appeal on "Oak and Fell  
Bicycle Improvements" (BOS File No. 121118-121121)

**PUBLIC COMMENT IN SUPPORT OF APPEAL**

This is public comment in support of the Appeal of Mark Brennan, Howard Chabner, and Ted Loewenberg on the proposed "Oak and Fell Bicycle Improvements" segment of the San Francisco Bicycle Plan Project. The MTA Board approved the Oak-Fell segment claiming a "categorical exemption" on October 16, 2012. Appellants have submitted a comprehensive Memo in support of this Appeal, and this Comment supports but will not repeat all the points in the Appellants' Memo.

The MTA Board's adoption and implementation of the Project is an abuse of discretion and a failure to proceed in the manner required by law under the California Environmental Quality Act ("CEQA," Pub.Res.Code §§21000 *et seq.*) and violates a Court Judgment and injunction. For these and other reasons raised in this Appeal, the Board should sustain the Appeal, set aside approval of the Oak-Fell segment, and restore the parking and other conditions that existed before the MTA Board's approval and illegal implementation of the Oak-Fell segment.

**1. Approval and Implementation of the Oak-Fell Segment Violates CEQA and the Court's Orders.**

Within days of its October 16, 2012 approval, and before the public had an opportunity to appeal that action, the MTA illegally implemented part of the project by removing all parking on the south side of Fell Street between Baker and Scott Streets, placing Tow-away No Parking signs on the entire segment, and painting an exclusive bicycle lane in the existing parking lane. The MTA has threatened immediate implementation of the rest of the Oak-Fell segment with no opportunity for public appeal.



Neither the MTA nor this Board has authority to approve the Oak-Fell segment, which was described as a "long-term" segment of the San Francisco Bicycle Plan Project. The Bicycle Plan Project and the validity and adequacy of its EIR have been appealed, and the permanent injunction ordered as part of June 18, 2007 Judgment therefore remains in effect. (See, e.g., *Coalition for Adequate Review et al. v. City and County of San Francisco*["*Coalition v. CCSF*"], SF Superior Court Case No. CPF-05-505509, Judgment Granting Petition for Peremptory Writ of Mandate, June 18, 2007.) The MTA Board's October 16, 2012 approval of the Oak-Fell segment and other "long-term" segments was unlawful, because it and all the other proposed "long-term" segments of the Project have received no environmental review or mitigation. Moreover, because they are part of the Project, they are enjoined, and the City may not invoke a piecemeal "categorical exemption" from CEQA.

City may not reinvent pieces of the larger Bicycle Plan Project, such as Oak-Fell, as separate projects. (See, e.g., *Coalition v. CCSF*, Order Granting Petition for Peremptory Writ of Mandate, November 7, 2006, SF Superior Court Case No. CPF-05-505509.) In *Coalition v. CCSF*, the Court held that piecemealed environmental review and implementation of the Bicycle Plan Project violates CEQA. (*Id.*) As explained by the Court, an agency may not invoke any exemption for a part of the Bicycle Plan Project. Rather, an exemption must apply to the whole Project. (*Association for Cleaner Environment v. Yosemite Community College District* (2004) 116 Cal.App.4th 629, 640.) City's similar piecemealing tactics in 2005 resulted in the Injunction that is still in effect, the Court's Order of November 7, 2006, Judgment of June 18, 2007, and the Peremptory Writ of Mandate, all of which rejected those tactics. (*Ibid.*)

Furthermore, the bases claimed for "categorical exemption" do not apply to the Oak-Fell segment of the Project. Even if hypothetically City could repeat its past illegal behavior, the claimed exemptions would not apply to the changes proposed by the Oak-Fell segment of the Bicycle Plan project.

## **2. Since the Proposed Oak-Fell Project May Have Significant Direct, Indirect, and Cumulative Impacts on the Environment, It Cannot Be Categorically Exempt.**

Since the Oak-Fell segment may have significant direct, indirect, secondary, and cumulative impacts on traffic, parking, passenger and freight loading, air quality, noise, and public safety, including accessibility of emergency vehicles and double parking in the remaining traffic lanes, it cannot be categorically exempt. (Pub. Res. Code §21083(b).) Appellants and others have described many of the significant impacts on traffic, parking, air quality, noise, and public safety resulting from the Oak-Fell segment. City has failed to analyze and effectively mitigate those impacts in violation of the fundamental mandate of CEQA. (Pub.Res.Code §21002.1.)

“[A]n activity that may have a significant effect on the environment cannot be categorically exempt.” *Salmon Protection and Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1199-2000, quoting *Mountain Lion Foundation v. Fish & Game Comm.* (1997) 16 Cal.4th 105.) The fair argument standard applies here, and Appellants and others have presented substantial evidence of a fair argument that the Oak-Fell segment may have significant impacts.

Indeed, even though it was not included in the misleading project description, City *admits* that the peak hour traffic lane on eastbound Oak Street will be eliminated, but it produces *no* analysis or evidence supporting its no-impacts conclusion.

The same is true for the City's failure to analyze the impacts of slowing traffic by signal changes, slowing traffic by forcing vehicles to travel behind bicycles at intersections ("head starts"), by impeding turning with many large bulbouts, and City's evasive answers to eliminating access for passenger and freight loading and for emergency vehicles that would be blocked by other large physical impediments.

City has no coherent traffic or transit analyses that cover the direct, secondary, and cumulative impacts, only unsupported conclusions and rhetoric. City has a duty to investigate a project's impacts, not to proselytize for the project. The Board of Supervisors must act independently of the project sponsor, City's MTA, which was also the body designing, approving and illegally implementing part of the Oak-Fell segment.

City repeats its boilerplate that parking is "not an impact" in San Francisco, but presents no authority or substantial evidence supporting that notion, which, as noted and cited by Appellants, is contradicted by case law. (See, e.g., *Landvalue 77 v. Board of Trustees of the California State University* (2011) 193 Cal.App.4th 675, 679-680 [Traffic analyzes that failed to analyze impacts caused by eliminating parking held inadequate]; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 696-698, fn.4 [parking deficits cause significant secondary impacts that must be analyzed and mitigated], etc.) The Oak-Fell segment will cause significant direct, secondary, and cumulative impacts, increased delays on Oak, Fell and intersecting streets due to direct and secondary parking impacts, signal timing changes, and cumulative impacts on traffic and public safety due to the parking removal, impediments to turning, access to and from private driveways, and reduced visibility on these busy traffic corridors. City has failed to analyze the impacts and the secondary impacts from removing parking and creating a severe parking shortage. City's unsupported theory that parking is "not an impact" in San Francisco is contrary to established case law finding that parking *is* an impact, and that secondary impacts from creating parking shortages must be analyzed and mitigated. City has not done so in violation of CEQA.

Secondary impacts include motorists searching for parking spaces on Oak and Fell and all nearby streets, double parking, loading impacts, and safety issues due to decreased visibility from installing planter boxes within inches of heavily-used traffic corridors.<sup>1</sup>

Proposed barriers to street parking on Oak and Fell Streets will also cause public safety impacts to residents who will not have parking or access for curbside passenger loading and other purposes. The proposed project causes particularly significant impacts for disabled people since it does not comply with the ADA, as well as for seniors, families, and others who need streetside parking. Double parking in traffic lanes is not mitigation and presents serious safety issues and traffic impacts by reducing street traffic capacity. These impacts have not been analyzed or mitigated.

City claims that "loading impacts would be less-than-significant because there is available on-street loading spaces nearby as well as off-street." (City Memo, 12/3/12, p.11.) Again, City

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<sup>1</sup> City's claim that there are "590 spaces" somewhere is unexplained and unsupported. The proposal removes 103 spaces on the south sides of both Fell and Oak Streets between Scott and Baker Streets, and other spaces to install physical turning impediments (bulbouts), not just "9 percent" of "590 spaces" as claimed by City. (City Memo, 12/7/12, p.4, City Memo 12/3/12, p.11.) City has not defined a cumulative area and has failed to analyze cumulative impacts.

evades the significant passenger and freight loading impacts *where they are needed*, not several blocks away, which are not resolved as implied by bulbouts and “continental ladder markings.”

City’s admission that bulbouts will slow traffic and impede turning and visibility contradicts its conclusion of no impacts. (City Memo 12/7/12, p.11.)

City concedes that “Significant effects on pedestrians, which include persons with mobility disabilities, could result from a project *if the project increased hazards to pedestrians.*” That is clearly an impact here due to inaccessibility to parking near where people live. However, the project’s impacts are not conditioned on City’s unsubstantiated and arbitrary criterion of whether the project “increases hazards to pedestrians.”

City’s claim (City Memo, 12/7/12, p.4) is incorrect that City does not have “criteria for the amount of available parking.” The Planning Department’s Transportation Impact Analysis guidelines for Environmental Review has parking standards for residential parking demand, including 1.1 vehicles per unit for One Bedroom or Studios, and 1.5 vehicles per unit for Two Bedrooms or More, as well as standards for commercial uses. (*Id.*, p.G-1 – G-2.) City’s claim is also incorrect that under CEQA Guidelines “parking is not considered to be environmental impacts.” (sic) (City Memo, 12/7/12, p.4.) As noted by Appellants, CEQA case law holds the contrary.

City’s claim (City Memo, 12/7/12, p.10) that the project is ‘expected’ to reduce emissions “by shifting a portion of motor vehicle trips to bicycle trips” is completely unsupported and is pure speculation, not substantial evidence.

### **3. There is No Legally Adequate Analysis of the Project’s Cumulative Impacts.**

Additionally, City has failed to analyze the cumulative impacts of the proposed Oak-Fell segment on parking, traffic, transit, air quality, noise, and public safety. (14 Cal. Code Regs. [“Guidelines”] §§ 15065(a)(3), 15130, 15355; Pub. Res. Code §21083(b)(2).) City misleads the public and decisionmakers by misstating the definition and standard for analyzing cumulative impacts. (*e.g.*, City Memo, 12/3/12, p.12; and December 7, 2012, p.7-8,2,4.) The correct procedure is set forth in Guidelines §15130(b), and must include discussion of past, present, and probable future projects. City has failed to follow that process, which is an abuse of discretion. City’s statement is plainly false that “There are no known proposed or reasonably foreseeable projects within the vicinity of the project that could combine to create significant environmental effects.” (City Memo, 12/7/12, p.8.) City admits that its Masonic Avenue bicycle project is only three blocks from the Oak-Fell segment, but claims that the “boundaries do not overlap, and there are no common intersections.” (*Id.*) City’s failure to define the area of cumulative impacts does not excuse its failure to analyze those impacts. That area must include the entire “geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.” (Guidelines §15130(b)(3).) The cumulative area is defined by the impacts, not the opposite view as City would have it where the impacts are limited to the project site. The cumulative area here affects not just Oak and Fell Streets but a much larger area affected by traffic and transit delays and parking removal and incremental impacts on air quality.

Here, only a few weeks before approving the Oak-Fell segment of the Bicycle Plan Project, City’s MTA Board adopted drastic changes to another nearby major traffic corridor, Masonic Avenue, including removing traffic lanes, and all parking spaces on both sides of Masonic from

Fell Street to Geary Boulevard to install raised “Class I” bicycle lanes on both sides of Masonic. The changes recently approved on Masonic that will constrict traffic flow and remove all parking on Masonic were *not* described in the Bicycle Plan EIR, their impacts were *not* analyzed, and effective mitigations were *not* proposed. Like the Oak-Fell segment, City was required to do a supplemental EIR on Masonic, because, as admitted by City in the EIR and the addendum, it will have significant impacts on a major north-south corridor carrying 32,000 vehicles and 12,000 passengers on Muni 43 line every day. Additionally, the Oak-Fell segment will affect 60,000 vehicles in City’s major east-west traffic corridors daily.

The Masonic segment is only a few blocks from the Oak-Fell segment. Yet there is *no* analysis of the cumulative impacts of that segment when combined with the Oak-Fell segment and other parts of the Bicycle Plan Project.

Thus the Bicycle Plan will remove 167 parking spaces on Masonic, only a few blocks from the Oak-Fell segment, for a total of 270 spaces combined with the Oak-Fell segment. Additionally, new development, including a Target store at Masonic and Geary, will add to traffic and parking demand. A few thousand feet away, City’s Market and Octavia Project would eliminate 1,320 existing parking spaces, while its rezoning would create a parking shortage of at least 5,640 parking spaces. (EIR, Market and Octavia Plan, p.4-233.)

As a larger matter, the 270 spaces removed for the Oak-Fell and Masonic bicycle segments contribute to a citywide cumulative parking shortage that also must be analyzed and mitigated. According to City’s data, thousands of street parking and public parking spaces were eliminated between 2008 and 2011, while vehicle ownership and use in the City has barely declined. (See MTA “Transportation Fact Sheets.”) In fact, the San Francisco County Transportation Authority’s “Countywide Transportation Plan” states that vehicle ownership and use will increase Citywide. (*Id.*, p.49.) There is clearly a potential for cumulative direct and secondary parking impacts that precludes a categorical exemption.

City has, moreover, failed to analyze the cumulative impacts on traffic, transit, passenger and freight loading, air quality, noise, public safety (including accessibility of emergency vehicles) of the Oak-Fell segment when combined with known other parts of the Bicycle Plan Project that will also eliminate parking, loading and traffic lanes, install impediments to traffic flow and turning, and slow traffic by changing traffic signal timing.

There is no analysis of secondary impacts from removing parking, including but not limited to circling and congestion by residents and visitors searching for parking. There is no analysis or mitigation of impacts of spillover traffic on nearby streets that are certain to be affected.

Approving the proposed project without analyzing and mitigating the project’s cumulative impacts is a prejudicial abuse of discretion. (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 73-74; *Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 624-625.)

#### **4. Even If City’s Illegal Piecemealing Were Allowed, There Is No Legal Basis for a Categorical Exemption.**

Both in the November 5, 2012 Appeal, and Appellants’ December 3, 2012 Memo in Support, Appellants clearly explain why the “Existing Facilities” exemption does not apply or to the proposed Oak-Fell segment.

As Appellants note, categorical exemptions must be narrowly construed. (*Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster [Azusa]* (1997) 52 Cal.App.4th 1165, 1193; *County of Amador v. El Dorado County Water Agency [“County of Amador”]* (1999) 76 Cal.App.4th 931, 966.) City’s overly broad view that it can call any street or highway an “existing condition” is legally erroneous, conflicting with legal definitions of those terms, which must be construed literally and narrowly. (*Ibid.*) A project can only be categorically exempt if it fits within a listed class of projects that has been declared to be categorically exempt, (Guidelines §§15061(b)(2), 15300), and that the project does not fall within any exception. (Guidelines §15300.2.) City’s claimed categorical exemptions do not survive either inquiry.

**The “Existing Facilities” and “Bicycle Lanes” Exemptions (Guidelines §§15301(c) and 15304(h) ) Do Not Apply.**

There is no "existing" facility on Oak and Fell Streets. The Oak-Fell segment proposes to remove 103 parking spaces and two parking lanes, some of which has already been illegally removed on the Fell segment. Parking lanes is the existing condition, not a “Class I” Bicycle lane. The legal definitions of “parking lane” and “Class I” bicycle lane are mutually exclusive. A parking lane does not “include any portion of the street used for through traffic or as a bicycle lane.” (S & H Code §5871(c).) A “Class I” bicycle lane is exclusively for the use of bicyclists with no parking or through traffic. (S&H Code §890.4(a).) These definitions are incompatible and mutually exclusive by their own terms. Case law clearly establishes that such a change of use does not fall within an “existing conditions” categorical exemption. (*County of Amador, supra*, 76 Cal.App.4th at p.967 [change of use of waterway did not qualify for “existing condition” categorical exemption].) For the same reasons, the §15304(h) exemption does not apply.

There are no existing barriers blocking access to street parking and access on Oak and Fell Streets. The large median barriers that the Oak-Fell segment proposes that will impede and make impossible streetside parking and loading are not a “minor” change. Those barriers create dangerous conditions and impaired visibility for access to existing driveways. They also block access for passenger and freight loading, emergency access, and delivery vehicles, creating dangerous conditions and the likelihood of double parking, itself a dangerous impact.

City’s disingenuous answer to these significant impacts reveals its bias: City claims that “The buffered bike lane is specifically designed to allow for temporary infrequent use of the space for necessary activities like street sweeping, emergency vehicle access, construction, and taxi and paratransit passenger loading and unloading,” and that “If vehicles or objects are blocking the bike lane cyclists can maneuver in the buffer space to avoid the obstruction without having to ride in the traffic lane.” (City Memo, 12/7/12, p.5.) The significant impact is not on “cyclists” but on residents, visitors, emergency services, taxis, delivery and other vehicles that will not be able to access homes and businesses or park anywhere near them. The impact is on everyday necessary use, not occasional use, which is also prohibited by the proposed Oak-Fell segment.

City claims that it met privately with a “Transportation Advisory Staff Committee,” on April 26, 2012, but there is no indication that any of the agencies involved investigated the significant and dangerous accessibility impacts of the proposed blocking of access. (City Memo, 12/7/12, p.3.) This commenter requested the complete files on this project from both the MTA and Planning Departments, but there was no record of that meeting. Further, if City is claiming that this meeting affected its review of the Oak-Fell segment, it was required to give notice and make that

meeting public, so that the public could have meaningful input into City's decisionmaking process.<sup>2</sup>

There are now no existing huge bulbouts at busy intersections impeding turns and visibility like those proposed by the Oak-Fell segment. Also, the proposed Oak-Fell segment is not an "existing" bicycle facility, since there is no existing bicycle facility on Oak Street, and there is no existing bicycle facility that removes parking like the one proposed.

**5. Changing Parking Six Blocks Away Does Not Effectively Mitigate the Project's Impacts, Cannot Be Used to Justify a Categorical Exemption, and Is An Admission That the Proposed Project Will Have Significant Impacts, Precluding Categorical Exemption.**

City on the one hand claims that parking is "not an impact," and on the other claims it has partially mitigated or reduced parking impacts by changing parallel parking to perpendicular parking on Baker Street between Haight and Waller Streets.<sup>3</sup> That is not effective mitigation, since Baker Street is six blocks away from proposed removed parking on Fell and Oak Streets at Scott. Under CEQA, mitigations must be effective, and their effectiveness must be supported by substantial evidence. The proposal removes 103 parking spaces and the entire parking lanes on Fell and Oak Streets from Baker to Scott Streets, while City claims that 46 spaces will be gained six blocks away by converting parallel parking to perpendicular parking.

Creating a few more spaces in streets several blocks away—and there is no evidence that 46 spaces would be gained there--does not effectively mitigate the proposed project's impacts, including direct, secondary, and cumulative impacts on parking, traffic, transit, air quality, noise, and public safety issues. As noted creating a few more parking spaces nearly six blocks away does not mitigate removing parking that is needed near where people live, work and shop. Mitigations that could result in other impacts must also be analyzed in an environmental impact report, which has not been done. Removing bus stops on a different street is not mitigation and creates other impacts that must be analyzed and mitigated.

As a matter of law, the proposed mitigations are irrelevant and cannot justify a categorical exemption even if the project replaced all of the removed parking. (*Asuza, supra*, 52 Cal.App.4th at p.1199; *Salmon Protection, supra*, 125 Cal.App.4th at pp.1106-1107.)

Moreover, City's claim of mitigation by changing existing parking on Baker Street is an admission that the project *does* have significant impacts requiring mitigation, which precludes a categorical exemption to begin with. (*Asuza, supra*, 52 Cal.App.4th at p.1198 [admission that pollutants were leaking from landfill into water supply established significant impact and precluded categorical exemption].)

City's failure to consider ADA issues and its evasion of the project's impacts on accessibility to parking for disabled, seniors, and families highlight its bias and release the public from any requirement of exhaustion. City's answer (Memo, 12/7/12, p.5) that "residents without

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<sup>2</sup> City claims that it received public input in support of the project, but refused several Public Records Act/Sunshine Requests by this commenter to provide records of that purported input, and the records, notice, and minutes of the claimed meetings.

<sup>3</sup> City evades the parking loss issue by claiming that its changes on Baker Street between Haight and Waller Streets result in a "net loss" of 55 spaces, instead of the 103 spaces it is actually removing on Fell and Oak Streets.

driveways do not have a guarantee that they will be able to be ‘picked up or dropped off in front of their homes’” again highlights its bias, and impliedly recommends the dangerous practice of double parking in remaining traffic lanes to enable access, while repeating for the third time that bicyclists can “maneuver in the buffer space” if *their* bicycle lane is blocked. (*Id.*) City’s statement is disingenuous that this is not a safety problem but is instead “a social issue” that it incorrectly claims is not covered by CEQA. (City Memo, 12/3/12, p.10; City Memo 12/7/12, p.4) (See, e.g., Guidelines §§15065(a)(4); 15064(e); 15126.2(a).)

In fact, City claims that “safety,” “comfort,” or speed for bicyclists are reasons for the proposed changes, but it is only concerned with the safety of the less than 3% of travelers who use bicycles.<sup>4</sup> (San Francisco Transportation Authority, *Countywide Transportation Plan*, p. 39.) According to City, no one else’s safety is of concern. City also claims that bicyclists, who already have a legal right to drive on any California and city street so long as they obey the Vehicle Code’s requirements for vehicles (Cal. Veh.Code §§21100(a)), may take traffic and parking lanes from busy traffic corridors because they are more flat or “comfortable” than other streets, is irrelevant to the analysis required under CEQA, and again reveals City’s lack of objectivity and disregard for the vast majority of City residents and travelers.

City may not lawfully approve the implementation of the Oak-Fell segment of the Bicycle Plan. For the foregoing and other reasons the Board should sustain the Appeal, and must require an EIR for the proposed Oak-Fell segment and for the cumulative impacts described above.



Mary Miles  
Attorney at Law

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<sup>4</sup> City provides *no* traffic, transit passenger, bicycle, and pedestrian counts for any affected streets or the cumulative area.

## **Bike lane on Fell St**

Board of Supervisors

**Sent:** Tuesday, December 18, 2012 4:00 PM

**To:** BOS-Supervisors

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**From:** Blair Camp [grey333@sbcglobal.net]

**Sent:** Tuesday, December 18, 2012 3:38 PM

**To:** Montoya, Luis

**Cc:** Lee, Mayor; Board of Supervisors

**Subject:** Bike lane on Fell St

Here is the status of your bike lane/turn lane project on Fell Between Scott and Divis.

Arco Gas Station has an extended service queue. The bicycles still do not obey traffic rules. The automobiles still do not obey traffic rules.

Twice last week I tried to back out of my garage, but could not because of the line waiting to get into the gas station.

Once last week I came home from an errand, could not enter my garage and had to wait in the left traffic lane, blocking traffic, because of the line waiting to get into the gas station.

Once I was in the left traffic lane, with my left turn signal on, checking my mirrors, about to turn across the bike lane into my garage and a car on Fell St, crossing Scott St, sped into the bicycle lane trying to get into the gas line and almost broadsided me as I (legally) turned into my garage.

We taxpayers have spent money on an alternative traffic lane, and Arco has profited.

As I told you months ago, none of these alternative transportation projects are going to work until automobiles and bicyclists learn to respect each other.

Blair Camp

1125 Fell Street #3

San Francisco CA 9417-2314



**From:** Kara Weisman [kara.weisman@gmail.com]  
**Sent:** Friday, December 14, 2012 12:48 PM  
**To:** Farrell, Mark; Mar, Eric (BOS); Chu, Carmen; Chiu, David; Olague, Christina; Kim, Jane; Elsbernd, Sean; Scott.Weiner@sfgov.org; Campos, David; Cohen, Malia; Avalos, John  
**Cc:** Board of Supervisors  
**Subject:** Please support Woodhouse Fish Company!

*Dear Supervisors:*

*I am a resident of the Marina and I whole heartedly support the proposed restaurant at the abandoned eyesore that is the Marina Degaussing Station. The local restaurateur, Woodhouse Fish Company, will bring a much desired amenity to the waterfront offering great, affordable seafood to locals and visitors alike.*

*I hope that you will join me and my neighbors and community in supporting this important project which will revitalize a derelict building into a gem of the City benefitting the neighborhood and the many users of the Marina Green.*

*Sincerely,*

--

*Sincerely yours,*

*Kara R. Weisman, Esq.*

**WEISMAN LAW**

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**Document is available  
at the Clerk's Office  
Room 244, City Hall**

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

BOS-11

COB

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RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2012 DEC 21 PM 3:15

December 20, 2012

Clerk of the Board  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place, Rm 244  
San Francisco, CA 94102-4689

RE: 415 Area Code Meeting

This letter is to invite your participation in the California Public Utilities Commission's (CPUC) decision-making process in connection with a change to the 415 area code. The 415 area code is expected to use up all available area code-prefix combinations by the third quarter of 2015 and the CPUC needs to begin a process to introduce a new area code.

When the CPUC considers a change to an area code, the perspectives of local government officials and the community are very important. On January 16, 2013, in conjunction with the North American Numbering Plan Administrator (NANPA), the CPUC will host a meeting for the local jurisdictions within geographic area covered by the 415 area code. At this meeting, CPUC staff and NANPA representatives will explain the options available for adding the 628 area code to the geographic area covered by the 415 area code. We invite local officials to participate in this process. We also will be discussing the status of numbering resources in the 415 area code that should be useful to you in explaining this change to your own constituents.

Enclosed are two maps of the 415 area code. Because of FCC rules, the NANPA is likely to recommend introducing a new area code to 415 as an all services overlay. An overlay retains the same area code for currently assigned numbers, but requires customers to dial the area code plus the 7-digit number for every call made, even calls within each area code. Additional information is available at <http://www.cpuc.ca.gov/PUC/Telco/generalInfo/Area+Codes/415+Area+Code.htm>. The process of introducing new area codes is governed by FCC rules, which have specific requirements for a split. The circumstances involved in adding a new area code to the 415 are not consistent with the FCC's rules, but the CPUC could seek a waiver of those rules if public sentiment strongly favors a split option.

In addition to the local jurisdiction meetings, the CPUC will hold public meetings on January 16 and 17, 2013. Please share this area code meeting information with your constituents and encourage them to attend one of these meetings. Enclosed is a flyer with more details about the meetings. Following the meetings, NANPA will submit a petition to the CPUC for authorization to implement an area code change plan in the 415 area code.

Written comments may be submitted to the Commission's Public Advisor's Office at 320 West 4<sup>th</sup> Street, Suite 500; Los Angeles, CA 90013 or via email to: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov). If there are further questions, the Area Code Hotline (866) 340-6147 is available to answer your questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Lakritz".

Jonathan Lakritz, Consumer Programs Manager  
Communications Division

Attachments



## California Public Utilities Commission

505 Van Ness Ave., San Francisco

The 415 area code is expected to use up all the available prefixes by October 2015. To ensure that new numbers are available for customers and technology expansion, the California Public Utilities Commission has begun the process to introduce a new area code to the geography now served by the 415. The new area code added to the 415 will be 628.

### **Local Jurisdiction Meeting**

#### **San Francisco**

Wednesday, January 16, 2013

2:00 p.m.

California Public Utilities Commission

Auditorium

505 Van Ness Avenue

San Francisco, CA

### **Public Meeting**

#### **San Francisco**

Wednesday, January 16, 2013

7:00 p.m.

California Public Utilities Commission

Auditorium

505 Van Ness Avenue

San Francisco, CA

### **Public Meetings**

#### **San Rafael**

Thursday, January 17, 2013

2:00 p.m. and 7:00 p.m.

San Rafael City Council Chambers

1400 Fifth Ave.

San Rafael, CA

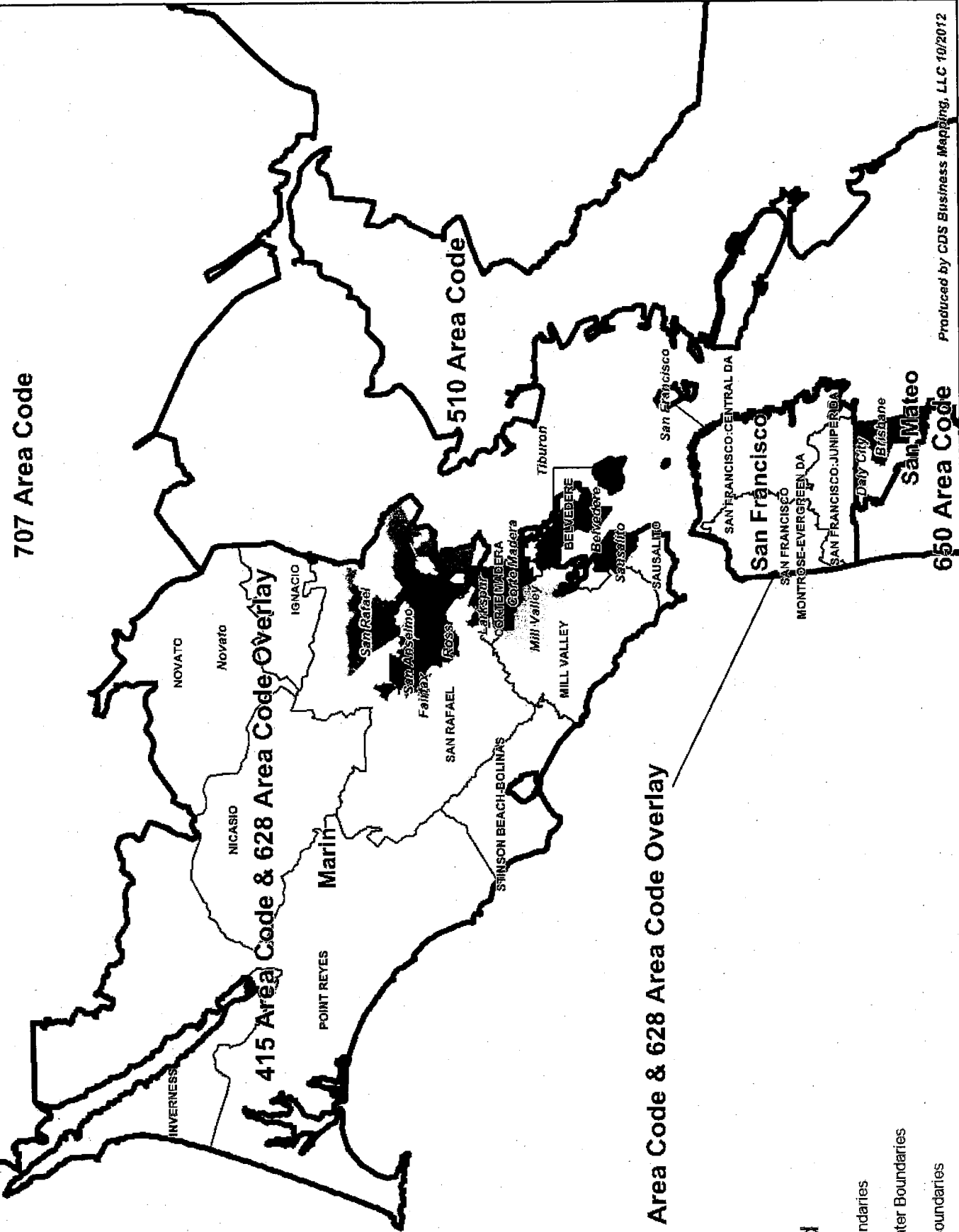
The public is invited and encouraged to attend any of the meetings scheduled. Written comments may be submitted to the Commission's Public Advisor's Office at 320 W. 4th Street, Suite 500, Los Angeles, CA 90013, at the Commission's web comment site <http://www.cpuc.ca.gov/415areacode>, or via e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov). Additionally, you may call the **Area Code Hotline** number for more information at (866) 340 – 6147.

It is the Commission's policy to schedule hearings in locations that are accessible to everyone. If you require additional accessibility assistance, such as a sign language interpreter, please contact the Commission's Public Advisor's Office five business days prior to the meeting date toll free at 866-849-8390 or toll free TTY at 866-836-7825.



415 & 628 Area Code Overlay Rate Center Map, Cities & Counties

707 Area Code

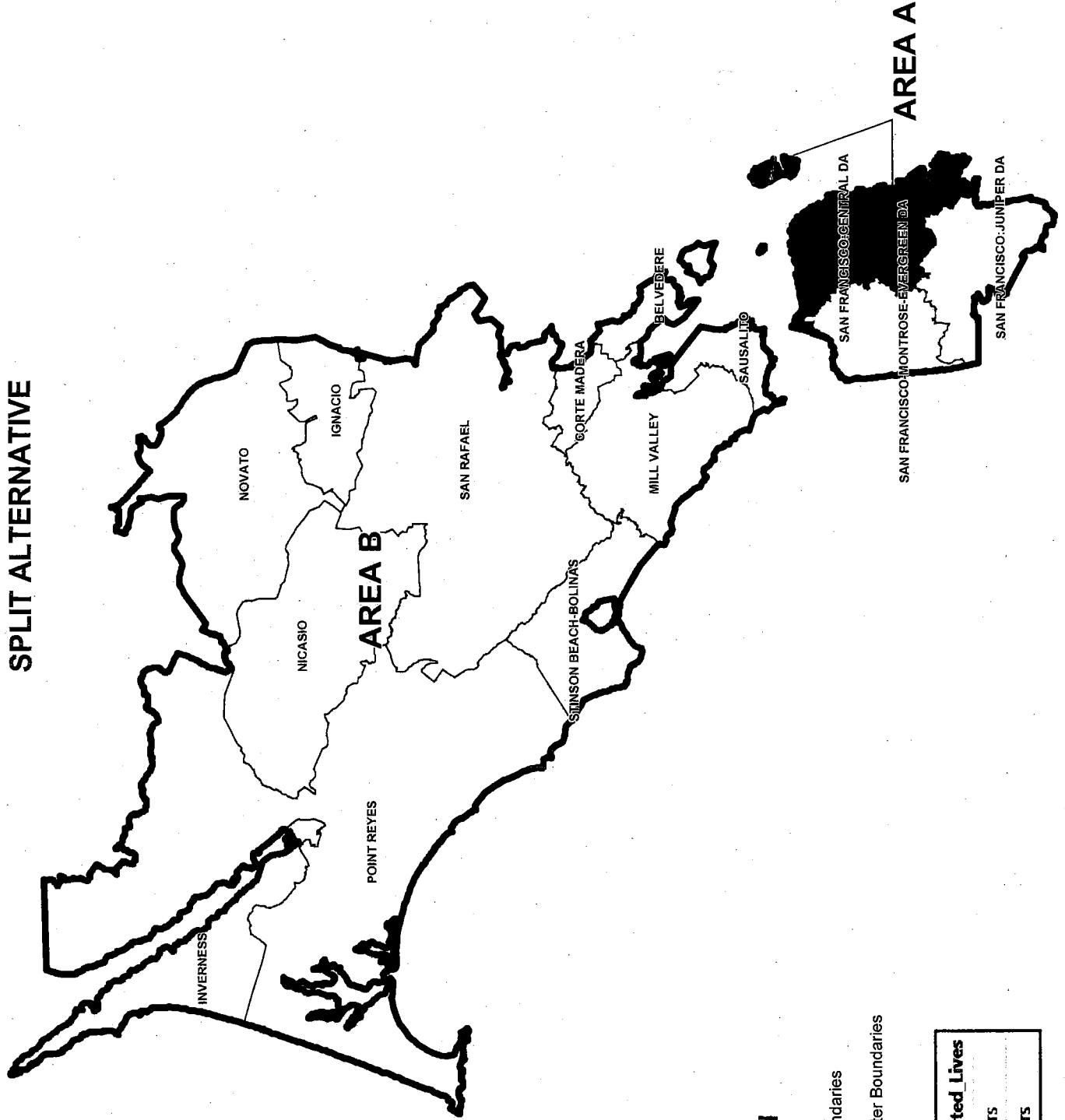


415 Area Code & 628 Area Code Overlay


Map Legend

- NPA Boundaries
- Rate Center Boundaries
- County Boundaries

SPLIT ALTERNATIVE



Map Legend

-  NPA Boundaries
-  Rate Center Boundaries

Split Alt	Projected Lives
AREA A	23 Years
AREA B	67 Years