

FILE NO. 130405

Petitions and Communications received from April 29, 2013, through May 6, 2013, for reference by the President to Committee considering related matters, or to be ordered filed by the Clerk on May 14, 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 Clerk of the Board, reporting the following individuals have submitted a Form 700 Statement: (1)

Joseph Smooke - Legislative Aide - Leaving

From Mayor, designating Supervisor Malia Cohen as Acting-Mayor from May 5, 2013, until May 7, 2013. Copy: Each Supervisor. (2)

From Controller, submitting San Francisco Municipal Transportation Agency: Overhead Rates of Five Central Subway Project Design Consultants Must Be Reduced report. Copy: Each Supervisor. (3)

From Controller, submitting response to Budget and Legislative Analyst Recommendation on the San Francisco Municipal Transportation Agency Revenue Bonds, Series 2012A and 2012B. Copy: Each Supervisor. (4)

From Human Services Commission, submitting Human Services Care Fund FY 2012-2013 3<sup>rd</sup> Quarter Update report. Copy: Each Supervisor. (5)

From Recreation and Park, submitting FY 2012-2013 3<sup>rd</sup> Quarter Implementation Plan Status report. Copy: Each Supervisor. (6)

From Capital Planning Committee, submitting review of three authorizations of debt issuance and related supplemental appropriation requests. File Nos. 130368, 130363, and 130371. Copy: Each Supervisor. (7)

From Capital Planning Committee, submitting review of supplemental appropriation request for the Public Utilities Commission Water System Improvement Program. Copy: Each Supervisor. (8)

From Successor Agency to the Redevelopment Agency, submitting notice of public meetings. Copy: Each Supervisor. (9)

From Pacific Gas and Electric, submitting Notice of Application of 2014 General Rate Case Phase II Application. Copy: Each Supervisor. (10)

\*From U.S. General Services Administration, submitting notice of intent to nominate 630 Sansome Street to the National Register of Historic Places. Copy: Each Supervisor. (11)

From concerned citizens, regarding the 706 Mission Street Tower Project. File No. 130308. 2 letters. Copy: Each Supervisor. (12)

From Lee Goodin, regarding the Central Subway. Copy: Each Supervisor. (13)

From concerned citizens, regarding the proposed settlement with the Cellular Telephone Industry Association. File No. 130315. Copy: Each Supervisor. (14)

\*From concerned citizens, regarding the Municipal Transportation Agency's Parking Meter Expansion Program. File No. 130155. 23 letters. Copy: Each Supervisor. (15)

From Alvin Ja, regarding the Accrediting Commission for Community & Junior Colleges. Copy: Each Supervisor. (16)

From Janette Biagini-Barroca, submitting petition to establish the Top of Broadway Community Benefit District. Copy: Each Supervisor. (17)

From concerned citizens, regarding CEQA revision legislation. File Nos. 121019 and 130248. 2 letters. Copy: Each Supervisor. (18)

From Pat Monk, regarding State and Federal marijuana laws. 2 letters. Copy: Each Supervisor. (19)

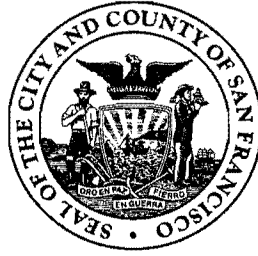
From concerned citizen, regarding public WiFi. (20)

From Laine Buckingham, regarding Woodhouse on Marina Green. File No. 120987. Copy: Each Supervisor. (21)

From Dana S, regarding fiber broadband. Copy: Each Supervisor. (22)

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

**BOARD of SUPERVISORS**



**City Hall**  
**1 Dr. Carlton B. Goodlett Place, Room 244**  
**San Francisco 94102-4689**  
**Tel. No. 554-5184**  
**Fax No. 554-5163**  
**TDD/TTY No. 544-5227**

Date: April 30, 2013  
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:

Joseph Smooke – Legislative Aide - Leaving

OFFICE OF THE MAYOR  
SAN FRANCISCO



*Electronically*  
BOS-11, J-Elliott, 3 Dep.  
Dep. City Attorney, *page*  
EDWIN M. LEE  
MAYOR

May 3, 2013

Ms. Angela Calvillo  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

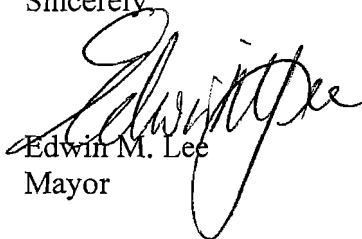
RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2013 MAY -3 AM 9:54

Dear Ms. Calvillo,

Pursuant to Charter Section 3.100, I hereby designate Supervisor Malia Cohen as Acting-Mayor from the time I leave the State of California on Sunday, May 5, 2013 at 11:00 p.m., until I return on Tuesday, May 7, 2013 at 2:20 p.m.

In the event I am delayed, I designate Supervisor Cohen to continue to be the Acting-Mayor until my return to California.

Sincerely,

  
Edwin M. Lee  
Mayor

cc: Mr. Dennis Herrera, City Attorney  
All Members, Board of Supervisors

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**From:** Chapin-Rienzo, Shanda on behalf of Reports, Controller  
**Sent:** Wednesday, May 01, 2013 11:37 AM  
**To:** Edward Reiskin, Director of Transportation; Boomer, Roberta; Bose, Sonali; Farhangi, Shahnam; Funghi, John; Hoe, Albert; Ross Edwards;; Jenny Vodvarka; Kathleen Sakelaris;; Lien Luu; Catherine Brady; 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-EVERYONE; CON-CCSF Dept Heads; CON-Finance Officers  
**Subject:** Report Issued: SFMTA: Overhead Rates of Five Central Subway Project Design Consultants Must Be Reduced

The Office of the Controller's City Services Auditor Division (CSA) today issued a report on its review of the overhead rates of five of 35 consultants that performed architectural and engineering services for the Central Subway Project's final design. CSA engaged Sjoberg Evashenk Consulting, Inc. (Sjoberg) to perform the review in three phases. In phase two of the agreement Sjoberg found that, of the five consultants' reported overhead rates reviewed, all five must be reduced.

To view the full report, please visit our website at: <http://co.sfgov.org/webreports/details.aspx?id=1564>

This is a send-only email address.

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 MUNICIPAL TRANSPORTATION AGENCY:**

## **Overhead Rates of Five Central Subway Project Design Consultants Must Be Reduced**



*May 1, 2013*

**OFFICE OF THE CONTROLLER  
CITY SERVICES AUDITOR**

The City Services Auditor Division (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 CSA 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 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.

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 CSA at 415-554-7469.

CSA Team: Mark de la Rosa, Audit Manager  
Nicholas Delgado, Audit Manager

Consultants: Sjoberg Evashenk Consulting, Inc.



CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF THE CONTROLLER

Ben Rosenfield  
Controller

Monique Zmuda  
Deputy Controller

May 1, 2013

Board of Directors  
San Francisco Municipal Transportation Agency  
1 South Van Ness Avenue, 7<sup>th</sup> Floor  
San Francisco, CA 94103

Edward D. Reiskin  
Director of Transportation  
San Francisco Municipal Transportation Agency  
1 South Van Ness Avenue, 7<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Chairman and Members, and Mr. Reiskin:

The Office of the Controller's City Services Auditor Division (CSA) engaged Sjoberg Evashenk Consulting, Inc., (Sjoberg) to perform desk reviews of consultant overhead rates submitted under the San Francisco Municipal Transportation Agency (SFMTA) Central Subway Project. In phase two of the three-phase agreement, Sjoberg reviewed overhead rates submitted for five of 35 consultants that performed architectural and engineering services under contracts CS-155-1, CS-155-2, and CS-155-3 with the City and County of San Francisco (City) to assist with the Central Subway Project's final design.

CSA presents the desk review results for the five consultants' overhead rates under the Central Subway Project architecture and engineering contracts. The desk reviews required Sjoberg to perform sufficient analytical procedures and testing to conclude on whether any information came to Sjoberg's attention that indicates that the overhead rates reported by the consultants:

- Do not reflect actual overhead rates.
- Were not prepared and reported in compliance with the terms of the consultants' contracts with the City, which incorporate Federal Acquisition Regulation (FAR) Part 31.

Sjoberg conducted the desk reviews in accordance with standards for attestation engagements established under generally accepted government auditing standards issued by the Comptroller General of the United States. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the consultants' assertions. Accordingly, Sjoberg did not express such an opinion.

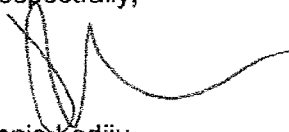
**Sjoberg found that, of the five consultants' reported overhead rates reviewed, all five must be reduced.** Although the consultants' overhead rate calculations mostly complied with the terms of the consultants' contract with the City and FAR provisions and overhead rates were generally supported by underlying financial data, some costs should have been excluded from those used as the basis of overhead rates. Although, *not* the actual recovery amount due to the SFMTA, \$335,532 in unsupported, unallowable, or unreasonable costs under FAR Part 31 was found to underlie the consultants' reported overhead rates. SFMTA will determine the actual amount it is due from the consultants when the final contract cost review occurs.



SFMTA's response to the report is attached as Appendix B. Appendix C presents the consultants' responses to the report.

CSA appreciates the assistance Sjoberg provided and the cooperation of SFMTA staff during the review. 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,

A handwritten signature in black ink, appearing to read 'Tonia Lediju', with a long, sweeping horizontal line extending to the right.

Tonia Lediju  
Director of City Audits

Attachment

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

**City and County of San Francisco**  
**Office of the Controller – City Services Auditor**

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**San Francisco Municipal Transportation Agency:**  
Desk Review of Overhead Rates for Selected Central  
Subway Project Consultants

March 28, 2013

SJOBERG  EVASHENK  
CONSULTING, INC

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455 Capitol Mall • Suite 700 • Sacramento, California • 95814 • Tel 916.443.1300 • Fax 916.443.1350

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## I. Introduction

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In 2003, the City and County of San Francisco's (City's) Municipal Transportation Agency (SFMTA) embarked on a mission to build a subway system to link neighborhoods in the southeastern part of San Francisco with the retail and employment centers downtown and in Chinatown. The Central Subway Project will construct a modern, efficient light-rail line that will improve public transportation in San Francisco.

To assist with the Central Subway Project's final design, SFMTA hired several architectural and engineering consultants and sub-consultants under City contracts CS-155-1, CS-155-2, and CS-155-3, executed between late 2009 and early 2010. The contracts are held by joint venture partnerships between PB Telamon<sup>1</sup> (CS-155-1), Central Subway Design Group<sup>2</sup> (CS-155-2), and HNTB – B&C<sup>3</sup> (CS-155-3).

With \$948 million, or over half of the project's \$1.58 billion budget funded by the Federal Transit Administration, SFMTA has a fiduciary responsibility to ensure project expenses follow applicable federal rules and regulations such as the Federal Acquisition Regulation codified at 48 CFR Part 31 (FAR Part 31). Specific to these contracts, SFMTA used a "cost-plus fixed fee" compensation method where the consultants are to be reimbursed based on actual direct salaries, applicable overhead costs, and other actual direct costs in addition to a fixed fee which under cost-plus fixed fee contracts is intended to provide for profit. The contracts also distinguish between home office and field office overhead rates which are defined as follows:

- Home Office Overhead Rate: The home office overhead rate is the rate of compensation that the City shall pay the consultant as a multiplier of salary costs to compensate the consultant for administrative support of its employees who work out of offices supplied by the consultant.
- Field Office Overhead Rate: The field office overhead rate is a reduced rate the City shall pay the consultant as a multiplier of salary costs to compensate the consultant for administrative support of its employees who work out of offices supplied by SFMTA.

The contracts between SFMTA and the consultants further stipulate that consultants are only reimbursed for expenses allowed under FAR Part 31 and applicable cost accounting standards codified in 48 CFR Part 9904. The FAR is further referenced as the guiding document for all reviews or audits of the consultants' overhead rates.

One of the primary objectives of the FAR is to provide uniformity for organizations conducting business with federal or federally-funded entities in the application of cost principles and procedures. For contracts with commercial organizations, including construction and architect-engineer contracts, Subpart 31.2 of the FAR provides specific

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<sup>1</sup> PB Telamon is a joint venture between Parsons Brinckerhoff, Inc. and Telamon Engineering Consultants, Inc.

<sup>2</sup> The Central Subway Design Group is a joint venture between Parsons Brinckerhoff, Inc., Michael Willis Architects, and Kwan Henmi Architecture and Planning, Inc.

<sup>3</sup> HNTB – B&C is a joint venture between HNTB Corporation and B&C Transit.

guidance for determining allowability of costs<sup>4</sup>. In general, costs are only allowable if they are reasonable, allocable, supportable, and claimed in accordance with cost accounting standards as incorporated under FAR Part 31, generally accepted accounting principles, the terms of the contract, and FAR Part 31.2.

Of particular note, while some costs are expressly prohibited under FAR, the allowability of several other cost items depends on whether certain conditions are met, leaving room for interpretation. Nonetheless, as part of determining reasonableness of a cost, FAR 31.201-3 specifically states that if a specific cost is challenged by “the contracting officer or the contracting officer’s representative, the burden of proof shall be upon the contractor to establish that such cost is reasonable.” While differing viewpoints on the allowability of some costs we initially questioned may be unavoidable, where applicable, we considered the consultant’s perspective and additional proof provided in our assessment of their overhead rates.

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<sup>4</sup> Refer to Appendix A for FAR guidance for select items of costs discussed in this report.

## Review Objectives and Methodology

Sjoberg Evashenk Consulting (SEC) was engaged by the City and County of San Francisco Office of the Controller City Services Auditor (CSA) division to conduct desk reviews of the 2010 overhead rates for 35 consultants providing design services for the Central Subway Project under contract with the San Francisco Municipal Transportation Agency. The desk reviews will be conducted in three phases. The results presented in this report represent the desk reviews conducted in Phase II. Specifically, CSA selected 5 of the 35 individual consultants for us to examine as part of Phase II as shown in Table 1 below.

**Table 1: Consultant Proposed Overhead Rates for 2010<sup>5</sup>**

Consultant	Consultant Proposed Overhead Rates %		Fiscal Year End
	Field <sup>(A)</sup>	Home	
Cornerstone	137.76	152.33	12/31/2010
F.W. Associates	144.09	144.58	12/31/2010
Simon & Associates	-	148.00	12/31/2010
TBD Consultants	-	132.00	12/31/2010
YEI Engineers	159.51	167.17	12/31/2010

*Note: (A) Where no overhead rate is noted in the "Field" column, the consultant did not propose a separate field overhead rate.*

The Central Subway Project contracts allow SFMTA to audit the provisional overhead rates established for the contracts and adjust previous payments made to the consultants based on final audited overhead rates as approved by SFMTA. This may result in SFMTA paying the consultant or the consultant refunding SFMTA any difference between amounts paid and actually owed.

The objectives of these desk reviews were to determine whether any information came to our attention, based on sufficient analytical procedures and testing, that indicates that:

- (a) Overhead rates reported by the consultants for periods selected by the City reflected the consultants' actual overhead costs; and
- (b) Overhead rates were prepared and reported in compliance with the terms of their contract with the City that incorporates the Federal Acquisition Regulation, Part 31 (FAR Part 31) which is codified at 48 CFR Part 31 by reference.

To fulfill our objectives, we performed procedures that generally encompassed, but were not limited to the following activities:

<sup>5</sup> The overhead rates shown in this table represent the overhead rates calculated by the consultants based on their 2010 expenses. These rates may differ from the provisional overhead rates established by the consultants' contracts with SFMTA or any overhead rates used in their SFMTA project billings.

- Reviewed the contracts between SFMTA and the identified consultants for contract terms and conditions related to the accounting, reporting, and submission of consultant overhead rates and assessed consultant compliance with stated provisions by performing the procedures that follow.
- Reviewed the FAR Part 31 and AASHTO<sup>6</sup> for guidance in determining the allowability, allocability, and reasonableness of the overhead schedule costs.
- Obtained overhead schedules from SFMTA and CSA and reviewed overhead schedules to gain an understanding of indirect cost pools and the allocation base used by the consultant to calculate the overhead rate.
- Verified that each indirect expense account amount shown on the overhead schedule agreed with accounting records.
- For consultants without an audited overhead schedule, attempted to provide additional assurance that labor charges claimed were accurate and reasonable by validating total labor amounts with accounting records and various payroll records.
- Performed analytical procedures to review cost pools for apparent misclassifications including, but not limited to, direct and unallowable costs not excluded from the indirect cost pools and mathematical errors.
- Recalculated incorrectly presented overhead rates following AASHTO guidelines.
- Based on account dollar value and description, selected five overhead accounts from each consultant for further review. We focused on those accounts generally considered “high risk” by industry standards or those that encompassed a significant portion of overhead expenses.
- Within each selected overhead account, reviewed underlying supporting documentation for a sample of transactions to compare whether costs claimed complied with related clauses of the consultant’s contract and FAR Part 31. For a cost to be allowable under FAR, we assessed cost details against a 4-point test as required by the following principles:
  1. Reasonable per FAR 31.201-3;
  2. Allocable per FAR 31.201-4;
  3. Supportable per FAR 31.201-2(d); and
  4. Compliant with cost accounting standards, generally accepted accounting principles, and terms of the contract, as well as not otherwise prohibited per FAR 31.205.
- Identified unsupported, unallowable, unreasonable, or questionable costs and adjusted the consultant’s overhead rates accordingly.

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<sup>6</sup> AASHTO - American Association of State Highway and Transportation Officials

## Desk Review of Overhead Rates for Selected Central Subway Project Consultants

- Presented and discussed desk review results with consultant representatives as well as with SFMTA prior to the completion of fieldwork. All comments were considered prior to finalizing this report. The SFMTA and consultant responses can be found in Appendices B and C.

We conducted the desk reviews in accordance with attestation standards established under Generally Accepted Government Auditing Standards promulgated by the United States Comptroller General. A desk review is substantially less in scope than an examination or audit, the objective of which is the expression of an opinion on the consultants' assertions. Accordingly, we do not express such an opinion.



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## II. Desk Review Results in Brief

Overall, we found that the consultants' overhead rate calculations mostly complied with the City's pertinent contract terms and FAR provisions. Overhead rates were generally supported by underlying financial data, except as noted throughout the report. Most consultants had established processes to record, separate, and identify expenditures in accordance with FAR, however three of the five consultants did not appropriately exclude direct costs from their indirect cost pools which resulted in substantially inflated overhead rates reported on their overhead schedules. Specifically, over half, or \$187,958 of the \$335,532<sup>7</sup> in overhead schedule amount reductions we identified were due to direct project specific costs being incorrectly included as indirect cost.

Moreover, our review revealed several instances where costs were unsupported, unallowable, or unreasonable under FAR 31.201-2, FAR 31.201-3, and FAR 31.201-5. As such, we recommended downward adjustments to overhead rates for all five consultants as noted in Section III of this report. In addition, consultants did not achieve full compliance with FAR for select items of costs as summarized in Table 2 below.

**Table 2: Exceptions by Type and by Consultant – FAR 31.205, Selected Items of Costs**

	Cornerstone	F.W. Associates	Simon & Associates	TBD Consultants	YEI Engineers
Compensation for Personal Services		X		X	
Contributions or Donations				X	
Employee Morale				X	
Entertainment				X	
Fines, Penalties, and Mischarging				X	
Interest and Other Financial Costs				X	
Lobbying and Political Activity				X	
Professional and Consultant Service		X		X	
Public Relations and Advertising				X	
Travel	X		X	X	X
<b>Total Categories with Exceptions Noted:</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>10</b>	<b>1</b>

*Notes: 1) Shaded fields indicate that we did not note any issues or did not test this cost category for the particular consultant and thus cannot conclude on the allowability of those costs.*

Specifically, the main areas where consultants did not achieve full compliance with FAR related to entertainment costs and personal-use of company vehicle (travel), as highlighted on the following page.

<sup>7</sup> The total adjustment amount shown does not include reductions for bonuses for confidentiality purposes.

Entertainment

FAR 31.205-14 expressly disallows entertainment costs which it defines as costs of “amusement, diversions, social activities, and any directly associated costs such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities.” In our review of indirect costs, we identified a range of such disallowed costs, including celebratory cakes, golf tournaments, holiday gifts, and picnics claimed by the consultants that we disallowed in accordance with this principle.

Personal-Use of Company Vehicle (Travel)

FAR 31.205-46(d) permits the costs associated with owning or leasing a company-vehicle; however any personal-use portion must be separately accounted for and deducted from the vehicle cost claimed as overhead. Three of the five consultants reviewed did not exclude any portion of the vehicle cost to account for personal-use and did not have any formal policies or other documentation in place to justify the entire amount incurred is solely for business purposes.

As a result of these items and other incorrect applications of FAR, we recommend adjustments to the 2010 overhead rates for all consultants reviewed as shown in Table 3.

**Table 3: Consultant Overhead Rates for 2010**

Consultant	Consultant Proposed Overhead Rates %		Desk Review Recommended Overhead Rates %		Overhead Rate Change	Report Page
	Field <sup>(A)</sup>	Home	Field <sup>(A)</sup>	Home		
Cornerstone	137.76	152.33	n/a <sup>(B)</sup>	151.68 <sup>(C)</sup>	✓	11
F.W. Associates	144.09	144.58	116.64	131.27	✓	13
Simon & Associates	-	148.00	-	146.01	✓	15
TBD Consultants	-	132.00	-	116.90	✓	17
YEI Engineers	159.51	167.17	n/a <sup>(B)</sup>	163.30	✓	21

*Notes: (A) Where no overhead rate is noted in the “Field” column, the consultant’s overhead schedule did not list a separate field overhead rate and as such we did not review a field overhead in those instances.*

*(B) “n/a” means that while the consultant submitted a field overhead rate, the desk review determined that a field overhead rate calculation is not applicable as discussed in the Section III of this report.*

*(C) For consultants with a single overhead rate, the rate is often referred to as the “home” office overhead rate. The “home” office rate represents the “composite” or “company-wide” rate encompassing all allowable indirect costs and is applicable if no employees are stationed in field offices provided by contracting agencies. As discussed in Section III of this report, the “home” office rate for this consultant is a home and field blended composite rate that should also be applied to field employees due to the consultant’s unique situation in 2010.*

### **III. Desk Review Results by Consultant**

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FAR Part 31.201 establishes the cost principles and procedures framework for governmental contracts with commercial organizations including construction and architect-engineer contracts. Guidance under FAR 31.201 is high-level in nature and provides general reference for determining criteria for cost allowability, reasonableness, and allocability as follows:

- **Allowability – FAR 31.201-2:**
  - ✓ A cost is only allowable when the cost complies with all requirements for reasonableness, allocability, cost accounting standards, generally accepted accounting principles, terms of the particular government contract, and FAR Subpart 31.2.
  - ✓ A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation [...]. The contracting officer may disallow all or part of a claimed cost that is inadequately supported.
- **Reasonableness – FAR 31.201-3:**
  - ✓ A cost is only reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business.
  - ✓ If an initial review of the facts results in a challenge of a specific cost by the contracting officer or the contracting officer's representative, the burden of proof shall be upon the contractor to establish that such cost is reasonable.
- **Allocability – FAR 31.201-4:**
  - ✓ A cost is allocable if it is assignable or chargeable to one or more cost objectives on the basis of relative benefits received or other equitable relationship. Specifically, a cost is allowable to a government contract if it:
    - Is incurred specifically for the contract;
    - Benefits both the contract and other work, and can be distributed to them in a reasonable proportion to the benefits received; or
    - Is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown.

While costs claimed by consultants on their overhead schedules may be unallowable under FAR provisions, those costs may represent a legitimate expense for conducting business. However, as discussed in this section and throughout this report, our reviews only assess the consultants' overhead rate calculations in accordance with FAR and applicable contract terms and conditions.

Consequently, our adjustments to the overhead costs for the five consultants under review resulted in a net reduction of their claimed overhead schedule cost by more than \$335,532 as shown in Table 4 on the following page.

**Table 4: Net Overhead Adjustment**

Consultant	Net Overhead Schedule Reduction \$
Cornerstone	\$5,974
F.W. Associates	\$224,384
Simon & Associates	\$5,006
TBD Consultants	\$45,759 <sup>(A)</sup>
YEI Engineers	\$54,409
<b>Total:</b>	<b>\$335,532</b>

*Note: (A) The adjustment amount shown for this consultant does not include reductions for bonuses for confidentiality purposes.*

These amounts were used in our recalculation of the consultants' proposed 2010 overhead rates and represent the adjustment we made to the consultants' claimed overhead costs based on the FAR principles described earlier. **The amounts do not represent the actual recovery amounts due to SFMTA – those will be determined by SFMTA at the time of the final contract cost review.**

## **Cornerstone Concilium, Inc.**

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The self-compiled overhead schedule of Cornerstone Concilium, Inc., (Cornerstone) for the year ended December 31, 2010, proposed the following overhead rates:

- Home Office Overhead Rate: 152.33 percent
- Field Office Overhead Rate: 137.76 percent

### **Overview**

We found that Cornerstone's overhead rate calculations complied with its contract terms with the City and 48 CFR Part 31 (FAR), except as noted in the sections that follow.

Based on our review of accounting system reports and the related chart of accounts, it appears that the consultant has an established system that can separate direct expenses from indirect expenses allowing for the proper identification and billing of direct project specific costs versus indirect expenses. Cornerstone allocates its indirect costs to final cost objectives on the basis of direct labor — an allowable method under cost accounting standards and FAR. The overhead rate is calculated by dividing the total allowable indirect costs by the total direct labor costs.

In addition, while Cornerstone calculated a separate field overhead rate in accordance with its contractual requirement with MTA, we found the methodology used to compute the field office rate did not follow FAR and cost accounting principles because Cornerstone used the same direct labor allocation base rather than identifying the actual proportion of field direct labor to total direct labor. Upon further discussion with Cornerstone, we also learned that the vast majority of Cornerstone employees in 2010 were stationed full-time in field offices furnished by MTA and other clients. In its contract with Cornerstone on the CSP, MTA states that a separate field rate is applicable if "consultant personnel worked full time at the project field office (MTA offices) for more than six months annually."

Although the primary intent of a field rate is to reimburse consultants for employees stationed at a (client-provided) field office at a lower overhead rate to reflect the limited support received by the consultant's home office, FAR does not **expressly require** a separate field rate. Rather, FAR 31.203(f) states "separate cost groupings for costs allocable to offsite locations **may** be necessary to permit equitable distribution of costs on the basis of the benefits accruing to several cost objectives." However, if that separate field rate allocation does not yield an equitable distribution of cost, then we believe it would be unnecessary.

When examining Cornerstone's situation and using AASHTO's and the Defense Contract Audit Agency's preferred direct labor allocation base to calculate the field rate, we found that calculating a field rate was not feasible because 94 percent of Cornerstone's direct labor would have been allocated to the field office — leaving a very small amount of direct labor in the home rate allocation base. Thus, after allocating fringe benefits, indirect labor, and other indirect costs (general and administrative), the actual home overhead rate would be disproportionately higher than the field rate and

not an adequate representation or distribution of Cornerstone’s overhead costs. Without definitive or consistent guidance from the Federal Highway Administration and AASHTO, we believe that Cornerstone’s unique situation in 2010 justifies the use of a single composite (home) office overhead rate when adjusting invoices for final costs.

The only other issue we noted relates to one of the indirect costs included in the overhead schedule that we selected for detailed review. This indirect cost did not fully comply with the principles set forth by FAR Part 31 — namely, there was inadequate documentation to substantiate that the entire cost for a company auto lease was strictly for business use. As such, we recommend changes to the consultant’s overhead rates.

**Testing Results**

Our reconciliation of the overhead schedule cost category amounts to accounting records did not reveal any discrepancies. In fact, the overhead schedule costs tied without exception to Cornerstone’s trial balance.

To evaluate individual indirect costs, we selected five indirect cost accounts representing 16 percent of total indirect costs and reviewed 15 individual transactions for compliance with FAR 31.201-2. The selected accounts included expenditures for life and disability insurance, job cost variance, auto lease, rent expense, and life insurance. We found that the costs we reviewed were allocable, allowable, reasonable, and supported in accordance with FAR except for the overhead cost related to a company-leased vehicle.

- o Auto Lease:

While FAR 31.205-46(d) permits the cost of contractor-owned or leased vehicles, the personal use of the vehicles, which includes transportation to and from work, is considered an unallowable fringe benefit pursuant to FAR 31.205-6(m)(2). Since Cornerstone did not disallow any portion of the auto lease to account for the personal-use portion, we applied a common “27<sup>th</sup>s” deduction methodology resulting in a \$5,974 reduction of its auto lease overhead account.

**Recommendation #1**

Based on our desk review of Cornerstone Concilium’s self-compiled overhead schedule, we recommend the following adjustment to its overhead rate because the consultant did not comply with all aspects of FAR Part 31.

Consultant Proposed Overhead Rate		Desk Review Recommended Overhead Rate	
Field	Home	Field	Home
137.76%	152.33%	Not applicable	151.68%

## **F.W. Associates, Inc.**

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The self-compiled overhead schedule of F.W. Associates, Inc., (FWA) for the year ended December 31, 2010, proposed the following overhead rates:

- Home Office Overhead Rate: 144.58 percent
- Field Office Overhead Rate: 144.09 percent

### **Overview**

We found that FWA’s overhead rate calculations complied with its contract terms with the City and 48 CFR Part 31 (FAR), except as noted in the sections that follow.

FWA allocates its indirect costs to final cost objectives on the basis of direct labor — an allowable method under cost accounting standards and FAR. The overhead rate is calculated by dividing the total allowable indirect costs by the total direct labor costs. Yet, based on our review of accounting system reports and the related chart of accounts, it appears that FWA has not yet configured its accounting system to separate direct expenses from indirect expenses. As a result, there is increased risk of incorrectly classifying direct costs as indirect for FAR overhead reporting purposes.

Moreover, several costs included in the overhead schedule that we selected for detailed review did not comply with the principles set forth by FAR Part 31 — especially those related to adequate documentation to substantiate company-paid employee housing, unallowable non-business related consulting services, and direct costs not excluded from the overhead schedule. We also found minor discrepancies between the overhead schedule provided to SFMTA and underlying accounting records.

Finally, while FWA calculated a separate field overhead rate, its methodology to allocate costs between home and field offices was inconsistently applied across indirect cost accounts. Using an AASHTO preferred cost allocation methodology, we recalculated FWA’s field overhead rate using the following formulas:

- Field Office Direct Labor Rate =  $\frac{\text{Field Direct Labor Cost}}{\text{Total Direct Labor Cost}}$
- Field Office Labor Rate =  $\frac{\text{Total Field Labor Cost}}{\text{Total Labor Cost}}$

We then applied the field office *direct* labor rate to calculate fringe benefits and the field office *labor* rate to calculate the distribution for general and administrative costs except for those costs that FWA already specifically allocated to the home office such as delivery and messenger and bank service costs.

### **Testing Results**

Our reconciliation of the overhead schedule amounts to accounting records revealed a combined \$2,076 overstatement of the “publications and subscriptions” and “telephone



– wireless” accounts, which we included in our recalculation of FWA’s overhead rate. To evaluate indirect costs, we selected five indirect cost accounts representing 30 percent of total indirect costs and reviewed 15 individual transactions for compliance with FAR 31.201-2. The selected accounts included expenditures for health insurance, rent, taxes, consulting service, and wireless telephone. While the majority of costs reviewed complied with principles set forth by FAR, FWA was unable to provide supporting documentation to adequately demonstrate the allowability of certain costs as follows:

- o Rent:  
Employee housing, other than project or relocation related, is governed by FAR 31.205-6(m) which treats these costs as a fringe benefit. FWA was paying the rent for one of its employees to minimize the commute time between the employee’s principal residence and the FWA offices. Rent for employees is not considered an allowable fringe benefit unless transient in nature, established by company policy, or a written employer-employee contract. According to FWA, the arrangement was negotiated between the employee and FWA at the time of employment, however no written agreement or company policy exist to substantiate the costs. As such, we disallowed all rent costs occurred for this employee in 2010 totaling \$11,940 (\$995 per month).
- o Consulting Service:  
We disallowed the entire \$76,706 claimed under this account because the costs related to payments for architectural services rendered on FWA employees’ private residences. Unless costs are necessary to the overall operation of the business and incurred for a business-purpose, they are not allowable under FAR 31.201-4.

Also, while FWA provided adequate documentation to support nearly all transactions we reviewed, we found two overhead accounts that contained direct costs which should have been excluded from the indirect cost pool due to their direct nature. Specifically, FAR 31.202 stipulates that “direct costs of the contract shall be charged directly to the contract” and AASHTO further provides that “costs identified specifically with a contract are direct costs of that contract”. FWA claimed \$115,699 in direct job expenses and \$17,963 in direct project travel expenses as indirect cost, which combined with the other adjustments as discussed resulted in a reduction of FWA’s indirect costs by \$224,384.

**Recommendation #2**

Based on our desk review of F.W. Associates’ self-compiled overhead schedule, we recommend the following adjustment to its overhead rate because the consultant did not comply with all aspects of FAR Part 31.

Consultant Proposed Overhead Rate		Desk Review Recommended Overhead Rate	
Field	Home	Field	Home
144.09%	144.58%	116.64%	131.27%

## **Simon & Associates, Inc.**

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The self-compiled overhead schedule of Simon & Associates, Inc., (Simon) for the year ended December 31, 2010, proposed the following overhead rate:

- Home Office Overhead Rate: 148 percent
- Field Office Overhead Rate: none calculated

### **Overview**

We found that Simon's overhead rate calculations complied with its contract terms with the City and 48 CFR Part 31 (FAR), except as noted in the sections that follow.

Based on our review of accounting system reports and the related chart of accounts, it appears that the consultant has an established system that can separate direct expenses from indirect expenses and allows for the identification and billing of direct project specific costs versus indirect expenses. Simon allocates its indirect costs to final cost objectives on the basis of direct labor — an allowable method under cost accounting standards and FAR. The overhead rate is calculated by dividing the total allowable indirect costs by the total direct labor costs.

However, one of the indirect costs included in the overhead schedule that we selected for detailed review did not comply with the principles set forth by FAR Part 31 — namely, there was no deduction of its auto expense account to reflect the unallowable personal-use portion of company provided vehicles.

### **Testing Results**

Our reconciliation of the overhead schedule amounts to accounting records initially revealed significant differences. Upon further inquiry, Simon indicated that the original overhead schedule it submitted to MTA contained several estimated amounts and therefore balances did not fully reconcile to their year-end accounting records. As such, we recalculated Simon's overhead rate using actual costs reflected in the accounting records.

To evaluate indirect costs, we selected five indirect cost accounts representing 32 percent of total indirect costs and reviewed 14 individual transactions for compliance with FAR 31.201-2. The selected accounts included expenditures for professional licenses and registration, automobile, professional fees, legal, and rental expenses. While all transactions we reviewed were allocable, allowable, and supported by adequate documentation, we found that Simon did not properly account for the personal-use portion of expenses related to a vehicle leased by the company for its principal.

- Auto Expenses:

- While FAR 31.205-46(d) permits the cost of contractor-owned or leased vehicles, the personal use of the vehicles, which includes transportation to and from work is considered an unallowable fringe benefit pursuant to FAR 31.205-6(m)(2). Since Simon & Associates did not disallow any portion of the auto expenses to

account for the personal-use portion, we applied a common “2/7<sup>ths</sup>” deduction methodology<sup>8</sup> resulting in a \$5,006 reduction of its automobile expense overhead account.

Subsequent to our review, Simon submitted a revised overhead schedule with a new proposed rate of 148 percent and informed us that the initial formulation of their 2010 overhead rate was understated. Upon further review, we noted that while total costs remained the same on the revised overhead schedule, Simon reallocated a portion of their direct labor allocation base to indirect labor. Because this new distribution does not conflict with FAR, we recalculated Simon’s overhead rate and after adjusting their revised schedule for actual costs per accounting records, we are recommending a 2010 overhead rate of 146.01 percent.

**Recommendation #3**

Based on our desk review of Simon & Associates’ self-compiled overhead schedule, we recommend the following adjustment to its overhead rate because the consultant did not comply with all aspects of FAR Part 31.

Consultant Proposed Overhead Rate	Desk Review Recommended Overhead Rate
148%	146.01%

<sup>8</sup> The “2/7<sup>ths</sup>” methodology is based on weekly use divided into 5 days business use and 2 days weekend/personal use.

## **TBD Consultants, Inc.**

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The self-compiled overhead schedule of TBD Consultants, Inc., (TBD) for the year ended December 31, 2010, proposed the following overhead rate:

- Home Office Overhead Rate: 132.00 percent
- Field Office Overhead Rate: none calculated

### **Overview**

We found that TBD's overhead rate calculations complied with its contract terms with the City and 48 CFR Part 31 (FAR), except as noted in the sections that follow.

Based on our review of accounting system reports and the related chart of accounts, it appears that the consultant has an established system that can separate direct expenses from indirect expenses and allows for the identification and billing of direct project specific costs versus indirect expenses. TBD allocates its indirect costs to final cost objectives on the basis of direct labor — an allowable method under cost accounting standards and FAR. The overhead rate is calculated by dividing the total allowable indirect costs by the total direct labor costs.

However, several indirect costs included in the overhead schedule that we selected for detailed review did not comply with the principles set forth by FAR Part 31 — especially those related to adequate documentation to substantiate costs and unallowable overhead costs such as bonuses, travel and entertainment, professional fees, cars, charity, office supplies, and miscellaneous finance charges. As such, we recommend changes to the consultant's overhead rate.

### **Testing Results**

Our reconciliation of the overhead schedule amounts to accounting records did not reveal any discrepancies. However, we noted four overhead accounts that included expressly unallowable costs totaling \$16,893 shown below in addition to other unallowable costs discussed on the following page.

- Charity:  
We disallowed the entire \$1,340 claimed under this account because all expenses were for charitable donations and sponsorships that are made unallowable by FAR 31.205-1 and FAR 31.205-8.
- Office Supplies and Expenses:  
This overhead account included subaccounts for advertising and marketing totaling \$11,569 which we disallowed because the costs represented unallowable holiday gifts, golf tournament, and internet search engine fees pursuant to FAR 31.205-1.
- Professional Fees:  
TBD claimed \$2,563 in professional fees for a pension consultant and its payroll tax administrator which were for services provided in 2009. Because FAR

31.203(g) requires costs to be incurred during the current 2010 overhead schedule period, any 2009 expenses are not allowable.

○ Miscellaneous:

We reduced this overhead account by \$1,421 for expressly unallowable finance charge and loan interest costs. Interest on borrowings is not a permitted overhead cost per FAR 31.205-20.

To evaluate indirect costs, we selected five indirect cost accounts representing 20 percent of total indirect costs and reviewed 19 individual transactions for compliance with FAR 31.201-2. The selected accounts included expenditures for 401k/health savings account, professional fees, cars, travel and entertainment, and charity. Specific to the charity account, while we initially selected this account for detailed testing, upon receipt of the transaction detail we found that all six expenses recorded under this account represented expressly unallowable costs and therefore disallowed the entire charity amount claimed as described in the previous section. For the remaining accounts, we found that while the majority of costs reviewed complied with principles set forth by FAR, TBD was unable to provide supporting documentation to adequately demonstrate the allowability of the costs for several transactions as follows:

○ Bonuses:

Under FAR 31.205-6(f) bonuses are only allowable if they are made pursuant to a consistently followed established plan, policy, or formal employer-employee agreement that was in place prior to the services being rendered. In addition, the FAR further stipulates that the distribution of profits is an expressly unallowable overhead cost. Since TBD did not have a formal bonus policy in place, we disallowed the entire bonus amount claimed.

○ Travel and Entertainment:

We disallowed \$10,775 from TBD's "travel and entertainment" overhead account because costs claimed were insufficiently supported (FAR 31.201-2), represented expressly unallowable costs (FAR 31.201-13), or were direct in nature (FAR 31.201-2 and FAR 31.201-3):

- \$3,660 in hotel accommodations was only supported by a credit card statement without supporting hotel folio or travel expenditure claim;
- Expressly unallowable celebratory cakes, a parking ticket, airfare for a company holiday function, golf tournaments, and company picnics totaling \$6,440; and
- \$675 in taxi fare costs because it was a direct cost of a TBD project.

○ Car:

While FAR 31.205-46(d) permits the cost of contractor-owned or leased vehicles, the personal use of the vehicles which includes transportation to and from work is considered an unallowable fringe benefit pursuant to FAR 31.205-6(m)(2). Since TBD did not disallow any portion of the auto expenses to account for the

personal-use portion, we applied a common “2/7<sup>ths</sup>” deduction methodology<sup>9</sup> resulting in a \$17,088 reduction when specifically combined with other unallowable costs. Specifically, the \$17,088 reduction also included \$45 in an unallowable parking ticket (FAR 31.205-15).

o 401k/Health Savings Account:

We disallowed \$1,003 TBD claimed as 401k employer contributions because TBD did not provide statements to support the cost pursuant to FAR 31.201-2(d).

**Recommendation #4**

Based on our desk review of TBD Consultants’ self-compiled overhead schedule, we recommend the following adjustment to its overhead rate because the consultant did not comply with all aspects of FAR Part 31.

Consultant Proposed Overhead Rate	Desk Review Recommended Overhead Rate
132.00%	116.90%

<sup>9</sup> The “2/7<sup>ths</sup>” methodology is based on weekly use divided into 5 days business use and 2 days weekend/personal use.

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## **YEI Engineers, Inc.**

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The self-compiled overhead schedule of YEI Engineers, Inc., (YEI) for the year ended December 31, 2010, proposed the following overhead rates:

- Home Office Overhead Rate: 167.17 percent
- Field Office Overhead Rate: 159.51 percent

### **Overview**

We found that YEI's overhead rate calculations complied with its contract terms with the City and 48 CFR Part 31 (FAR), except as noted in the sections that follow.

Based on our review of accounting system reports and the related chart of accounts, it appears that the consultant has an established system that can separate direct expenses from indirect expenses and allows for the identification and billing of direct project specific costs versus indirect expenses. YEI allocates its indirect costs to final cost objectives on the basis of direct labor — an allowable method under cost accounting standards and FAR. The overhead rate is calculated by dividing the total allowable indirect costs by the total direct labor costs.

In addition, while YEI calculated a separate field overhead rate, we found the methodology used to compute the field office rate was not compliant with FAR and cost accounting principles because YEI used the same direct labor allocation base for both rates, rather than identifying the actual proportion of field direct labor to total direct labor. However, upon further discussion with YEI, we learned that YEI did not have any employees stationed at field offices furnished by MTA or any other clients in 2010. Since the primary intent of a field rate is to reimburse consultants for employees stationed at a (client-provided) field office at a lower overhead rate to reflect the limited support received by the consultant's home office, the field rate is not applicable if no employees are working in field offices. Therefore, only YEI's home office overhead rate should be used when adjusting invoices for final costs.

Moreover, several indirect costs included in the overhead schedule that we selected for detailed review did not comply with the principles set forth by FAR Part 31 — especially those related to non-reimbursable direct costs, expressly unallowable fines and social dues, and mileage claims for unallowable entertainment activities. As such, we recommend changes to the consultant's overhead rate.

### **Testing Results**

While total direct and indirect labor amounts claimed on YEI's overhead schedule agreed with accounting and payroll records, our reconciliation of other overhead schedule amounts to accounting records revealed an underreporting of \$1,007 in the depreciation account. We also noted two overhead accounts that contained expressly unallowable costs for fines, penalties and social dues and memberships totaling \$1,609. These and the following adjustments were included in our recalculation of YEI's overhead rate.



To evaluate indirect costs, we selected five indirect cost accounts representing 59 percent of total indirect costs and reviewed 17 individual transactions for compliance with FAR 31.201-2. The selected accounts included expenditures for indirect labor, employee incentive compensation, group medical insurance, legal and accounting fees, and travel and subsistence.

While YEI provided adequate documentation to support all transactions we reviewed, we found that the overhead accounts for “automobile,” “communication,” and “travel and subsistence” contained direct costs which should have been excluded from the indirect cost pool due to their direct nature. Specifically, FAR 31.202 stipulates that “direct costs of the contract shall be charged directly to the contract” and AASHTO further provides that “costs identified specifically with a contract are direct costs of that contract”.

For instance, the \$49,360 recorded under the “travel and subsistence” account represents the amount YEI reimbursed its employee travelling for project-purposes. Those costs are off-set by the revenue account called “reimbursed travel revenue” which at 12/31/10 had a balance of \$41,122. In other words, YEI clients paid the company \$41,122 of the \$49,360 it incurred in project-related travel. The difference of \$8,238, while not billable to the client is still considered a direct project cost under FAR and thus is not permitted as an overhead expense. In essence, if a consultant overspends the travel budget or is not granted any travel costs per its contract, then the consultant cannot indirectly seek reimbursement for those costs through its overhead rate. Combined with the direct costs from the automobile and communication accounts, we removed a total of \$53,621 in direct costs from YEI’s indirect cost pool.

Additionally, our detailed testing revealed minor unallowable costs totaling \$186 in YEI’s “travel and subsistence” account. Specifically, three transactions we reviewed all related to mileage reimbursements for YEI employees—however, the mileage claimed was for travel to entertainment activities is unallowable under FAR 31.25-14. Specifically, two of the claims were for personal-car mileage to attend a company Christmas party and a retreat. The third mileage claim was for a trip to pick up donuts. Because those activities are disallowed, their directly associated costs (e.g. related travel) are also unallowable per FAR 31.201-6.

**Recommendation #5**

Based on our desk review of YEI Engineer’s self-compiled overhead schedule, we recommend the following adjustment to its overhead rate because the consultant did not comply with all aspects of FAR Part 31.

Consultant Proposed Overhead Rate		Desk Review Recommended Overhead Rate	
Field	Home	Field	Home
159.51%	167.17%	Not applicable	163.30%

## Appendix A: Reference & Guidance for Select FAR Cost Items

Appendix A provides a highlight of overarching Federal Acquisition Regulation codified at 48 CFR Part 31 (FAR Part 31) principles and select FAR cost items used throughout this report. The information presented herein is not comprehensive and is not intended to supersede the FAR, any related laws or regulations, or contract requirements. Since FAR cost principles may change, readers of this section should refer to the most current FAR version on the FAR website at <http://www.acquisition.gov/far/>.

FAR Part 31.205 details the treatment of select costs that are allowable with limitations or expressly unallowable. Table 5 highlights the FAR provisions for select cost items and specific circumstances for items reviewed and discussed in the report.

Table 5: Select Items of Cost (FAR 31.205)

Cost Item	Allowable with Limitations	Expressly Unallowable	Description
<b>Compensation for Personal Services</b> FAR 31.205-6	X		Costs are unallowable if related to: <ul style="list-style-type: none"> <li>✓ Distribution of profits.</li> <li>✓ Bonuses if no established plan or policy is in place to support the basis of award prior to services rendered.</li> <li>✓ Personal-use portion of company-furnished automobiles including transportation to and from work.</li> </ul>
<b>Contributions or Donations</b> FAR 31.205-8		X	Contributions or donations, including cash, property and services, regardless of recipient, are unallowable.
<b>Employee Morale</b> FAR 31.205-13	X		Costs are unallowable if related to: <ul style="list-style-type: none"> <li>✓ Employee gifts.</li> <li>✓ Recreational activities.</li> </ul>
<b>Entertainment</b> FAR 31.205-14		X	Amusement, diversions, social activities, and any directly associated costs such as tickets to shows or sports events, meals, lodging, rentals, transportation, gratuities, and membership in social, dining, or country clubs are unallowable.
<b>Fines, Penalties, and Mischarging</b> FAR 31.205-15		X	Fines and penalties resulting from violations of, or failure of the contractor to comply with Federal, State, local, or foreign laws and regulations are unallowable.
<b>Interest and Other Financial Costs</b> FAR 31.205-20		X	Interest on borrowings, however represented, is unallowable.
<b>Lobbying and Political Activity</b>		X	In kind or cash contributions, endorsements, and publicity to influence the outcomes of any Federal, State, or local election,

**Desk Review of Overhead Rates for Selected Central Subway Project Consultants**

Cost Item	Allowable with Limitations	Expressly Unallowable	Description
FAR 31.205-22			referendum, or initiative are unallowable.
<b>Professional and Consultant Service</b> FAR 31.205-33	X		Costs are allowable if: <ul style="list-style-type: none"> <li>✓ Evidence is available to determine nature and scope of service.</li> <li>✓ Agreements are available detailing actual services performed.</li> <li>✓ Invoices or billings submitted contain sufficient detail as to the time expended and nature of the actual services provided.</li> <li>✓ Work products and related documents, such as trip reports indicating persons visited and subjects discussed, minutes of meetings, and collateral memoranda and reports are available.</li> </ul>
<b>Public Relations and Advertising</b> FAR 31.205-1	X		Cost are unallowable if related to: <ul style="list-style-type: none"> <li>✓ Promoting the sale of products or services calling favorable attention to the contractor for purposes of enhancing the company image to sell the company's products or services.</li> <li>✓ Sponsoring meetings, conventions, symposia, seminars when the principal purpose is other than dissemination of technical information.</li> <li>✓ Promotional material, brochures, handouts, and other media that are designed to call favorable attention to the contractor and its activities.</li> <li>✓ Memberships in civic and community organizations.</li> </ul>
<b>Travel</b> FAR 31.205-46	X		Costs are unallowable if related to: <ul style="list-style-type: none"> <li>✓ Personal-use portion of company-furnished automobiles including transportation to and from work.</li> </ul>

## Appendix B: SFMTA Response



**SFMTA**  
Municipal Transportation Agency

April 23, 2013

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: San Francisco Municipal Transportation Agency (SFMTA) Response to the Office of the Controller's Phase II Desk Review of Central Subway Project Design Consultants' Overhead Rates*

Dear Ms. Lediju:

Thank you for providing your Phase II desk review of the Design Consultants' overhead rates included in SFMTA contracts CS-155-1, 2 and 3. We appreciate the time and effort that you and your staff, including Sjoberg, have dedicated to the completion of this desk review. Four out of the five firms reviewed agreed with the recommendations, one firm did not submit a response; the program will implement the recommended overhead rates within the next one to two billing cycles.

It is important to note that with regard to the net overhead schedule reduction of the five firms, the amount noted in the report of \$335,532 is not reflective of what SFMTA may owe these firms or what they may owe us. Also, the overhead rates contained in the draft report of some of the firms are not reflective of what was actually billed to SFMTA. For example, although documentation from F.W. Associates shows an overhead rate of 144.09 percent, the firm did not bill the SFMTA at that rate; SFMTA was billed at a lower rate of 134 percent.

We look forward to working with the Controller's Office to commence the next set of desk reviews. If you have any questions or need additional information, please do not hesitate to contact the Central Subway Program Director, John Funghi, at (415) 701-4299.

Sincerely,

Edward D. Reiskin  
Director of Transportation

cc:  
Sonali Bose, SFMTA CFO/Director of Finance & IT  
Shahnam Farhangi, SFMTA Capital Programs & Construction Acting Director  
John Funghi, SFMTA Program Director  
Albert Hoe, SFMTA Deputy Program Director  
Ross Edwards, Central Subway Partners PM/CM Project Manager

One South Van Ness Ave.  
Seventh Floor  
San Francisco, CA 94103

Tele: 415.701.4500

www.sfmta.com



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

## RECOMMENDATIONS AND RESPONSES

Recommendation	Response												
<p>The San Francisco Municipal Transportation Agency should:</p> <p>1. Require Cornerstone Concilium to make the following adjustment to its overhead rates:</p> <table border="1" data-bbox="344 745 1050 870"> <thead> <tr> <th colspan="2">Consultant Proposed Overhead Rates</th> <th colspan="2">Desk Review Recommended Overhead Rates</th> </tr> <tr> <th>Field</th> <th>Home</th> <th>Field</th> <th>Home</th> </tr> </thead> <tbody> <tr> <td>137.76%</td> <td>152.33%</td> <td>N/A</td> <td>151.68%</td> </tr> </tbody> </table>	Consultant Proposed Overhead Rates		Desk Review Recommended Overhead Rates		Field	Home	Field	Home	137.76%	152.33%	N/A	151.68%	<p>Concur. Recommendation will be implemented within the next one to two billing cycles.</p>
Consultant Proposed Overhead Rates		Desk Review Recommended Overhead Rates											
Field	Home	Field	Home										
137.76%	152.33%	N/A	151.68%										
<p>2. Require F.W. Associates to make the following adjustment to its overhead rates:</p> <table border="1" data-bbox="283 1049 989 1174"> <thead> <tr> <th colspan="2">Consultant Proposed Overhead Rates</th> <th colspan="2">Desk Review Recommended Overhead Rates</th> </tr> <tr> <th>Field</th> <th>Home</th> <th>Field</th> <th>Home</th> </tr> </thead> <tbody> <tr> <td>144.09%</td> <td>144.58%</td> <td>116.64%</td> <td>131.27%</td> </tr> </tbody> </table>	Consultant Proposed Overhead Rates		Desk Review Recommended Overhead Rates		Field	Home	Field	Home	144.09%	144.58%	116.64%	131.27%	<p>Concur. Recommendation will be implemented within the next one to two billing cycles.</p>
Consultant Proposed Overhead Rates		Desk Review Recommended Overhead Rates											
Field	Home	Field	Home										
144.09%	144.58%	116.64%	131.27%										

**Desk Review of Overhead Rates for Selected Central Subway Project Consultants**

<b>Recommendation</b>	<b>Response</b>												
<p>3. Require Simon &amp; Associates to make the following adjustment to its overhead rate:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th align="center">Consultant Proposed Overhead Rate</th> <th align="center">Desk Review Recommended Overhead Rate</th> </tr> </thead> <tbody> <tr> <td align="center">148.00%</td> <td align="center">146.01%</td> </tr> </tbody> </table>	Consultant Proposed Overhead Rate	Desk Review Recommended Overhead Rate	148.00%	146.01%	<p>Concur. Recommendation will be implemented within the next one to two billing cycles.</p>								
Consultant Proposed Overhead Rate	Desk Review Recommended Overhead Rate												
148.00%	146.01%												
<p>4. Require TBD Consultants to make the following adjustment to its overhead rate:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th align="center">Consultant Proposed Overhead Rate</th> <th align="center">Desk Review Recommended Overhead Rate</th> </tr> </thead> <tbody> <tr> <td align="center">132.00%</td> <td align="center">116.90%</td> </tr> </tbody> </table>	Consultant Proposed Overhead Rate	Desk Review Recommended Overhead Rate	132.00%	116.90%	<p>Concur. Recommendation will be implemented within the next one to two billing cycles.</p>								
Consultant Proposed Overhead Rate	Desk Review Recommended Overhead Rate												
132.00%	116.90%												
<p>5. Require YEI Engineers to make the following adjustments to its overhead rates:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="2">Consultant Proposed Overhead Rates</th> <th colspan="2">Desk Review Recommended Overhead Rates</th> </tr> <tr> <th align="center">Field</th> <th align="center">Home</th> <th align="center">Field</th> <th align="center">Home</th> </tr> </thead> <tbody> <tr> <td align="center">159.51%</td> <td align="center">167.17%</td> <td align="center">N/A</td> <td align="center">163.30%</td> </tr> </tbody> </table>	Consultant Proposed Overhead Rates		Desk Review Recommended Overhead Rates		Field	Home	Field	Home	159.51%	167.17%	N/A	163.30%	<p>Concur. Recommendation will be implemented within the next one to two billing cycles.</p>
Consultant Proposed Overhead Rates		Desk Review Recommended Overhead Rates											
Field	Home	Field	Home										
159.51%	167.17%	N/A	163.30%										

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## Appendix C: Consultant Responses

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### Cornerstone Concilium, Inc. Response:



**CORNERSTONE TRANSPORTATION CONSULTING**  
A Cornerstone Concilium Company

Ms. Lien Luu  
Sjoberg Evashenk Consulting  
4550 Capitol Mall, Suite 700  
Sacramento,  
California 95814  
(916)443-1300

City and county of San Francisco  
Office of the Controller – City Services Auditor  
San Francisco Municipal Transportation Agency  
Desk Review of Overhead Rates for Selected Central Subway Project Consultants

Dear Ms. Luu,

Desk Review of Overhead Rates for Cornerstone Transportation Consulting Inc.

Thank you very much for conducting the Desk Review of Overhead Rates for Cornerstone Transportation Consulting on behalf of San Francisco Municipal Transportation Agency. Your team has been professional and courteous during the review.

We write, first of all, to acknowledge our acceptance of the Sjoberg Evashenk Consulting's Desk Reviewed Recommended Overhead Rate of 151.68% for the year 2010. This Overhead Rate will be applicable for both Home office and Field Office.

Furthermore, we are given an opportunity to review Sjoberg Evashenk Consulting's draft report before it is published and we have a chance to provide our feedback to the draft report. We have also been informed that our feedback will be incorporated in the final copy of the published report. Thus, this letter formulates our feedback to your report.

We understand that as with any review or audit, auditees do not (and do not have to) always agree with the report. Thus, we are glad that we can provide clarifications, from our perspective, about our practice that was commented in the report.

On page 7 of the report, there is the following statement:

In addition, while Cornerstone calculated a separate field overhead rate in accordance with its contractual requirement with MTA, we found the methodology used to compute the field office did not follow FAR and cost accounting principles because Cornerstone used the same direct labor allocation base rather than identifying the actual proportion of field direct labor to total direct labor.

We would like to point out that Cornerstone did not employ that particular non-complying method to gain special advantage. In fact, the overhead rate derived by this method is lower than the "Reviewed" rate as recommended by Sjoberg Evashenk Consulting. This method is known to be used by other consultants though it is not in accordance with the FAR. Cornerstone's adoption and use of this particular method is under the guidance and direction of another transit agency. We have submitted our correspondences with that agency to Sjoberg Evashenk Consulting to indicate that our submitted field office overhead rate was in agreement with that agency's review requirements. Since Sjoberg Evashenk Consulting does not have a full knowledge of that particular review scope, methodology, and reasoning for calculating the field rate, we agree with Sjoberg Evashenk Consulting that this observation will not be included in the report. However, Cornerstone would like to include this elaboration in our response letter to remove any negative perception that a reader may gather from the quoted statement.

Sincerely,

Ming Ng, P.E.  
Vice President



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F. W. Associates, Inc. Response:



**F. W. ASSOCIATES, INC.**  
CONSULTING ENGINEERS

---

68 - 12<sup>TH</sup> STREET, SUITE 300, SAN FRANCISCO, CA 94103-1242

TEL: (415) 861-8288

FAX: (415) 861-0191

This letter is to indicate that our company concurs with the results on the draft report.

By F.W. Associates, Inc.

Munson Fong, Principal

3-19-2013

Date

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Desk Review of Overhead Rates for Selected Central Subway Project Consultants

Simon & Associates, Inc. Response:



simon & associates, inc. | green building consultants

[www.greenbuild.com](http://www.greenbuild.com)

phone: 415.908.3757

200 Brannan Street, #204

San Francisco, CA 94107

March 26, 2013

Robert Evashenk, Analyst  
Sjoberg Evashenk Consulting, Inc.  
455 Capitol Mall, Suite 700  
Sacramento, CA 95814

Re: SFMTA Desk Review of Overhead Rates

Dear Mr. Evashenk,

Thank you for the opportunity to review the revised draft report. We are in agreement with your assessment and recommendation of an overhead rate of 146.01.

Please call me on my cell at 415.806.6320 if you have any questions.

With best regards,

*Lynn N. Simon*

Lynn N. Simon, FAIA, LEED Fellow  
Simon & Associates, Inc. (now part of Thornton Tomasetti)

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**Desk Review of Overhead Rates for Selected Central Subway Project Consultants**

TBD Consultants, Inc. Response:

TBD Consultants, Inc. chose not to provide a response to their 2010 overhead rate desk review.

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YEI Engineers, Inc. Response:



**ENGINEERS, INC.**  
*Electrical • Mechanical*

March 21, 2013

Sjoberg Evaschenk Consulting Inc  
455 Capitol Mall, Suite 700  
Sacramento, CA 95814

Attention: Lien Luu

Subject: 2010 Overhead Rates for Selected Central Subway Project Consultants Report

Dear Ms Luu:

We have received and reviewed the 2010 overhead rates draft report pertaining auditing result for YEI Engineers Inc. The draft report of YEI overhead rates assessment is considered as acceptable.

Sincerely,

A handwritten signature in black ink, appearing to read 'George Cheung', is written in a cursive style.

George Cheung, P.E. Principal  
YEI Engineers, Inc.



BOS-11  
COB

Alisa  
Cpage

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**From:** Sesay, Nadia [nadia.sesay@sfgov.org]  
**Sent:** Friday, May 03, 2013 4:42 PM  
**To:** BOS-Supervisors  
**Cc:** Rosenfield, Ben; Calvillo, Angela; Reiskin, Ed; Bose, Sonali; Elliott, Jason; Rose, Harvey; Howard, Kate; Newman, Debra; Ababon, Anthony; Simpliciano, Sophia  
**Subject:** Response to Budget and Legislative Analyst Recommendation dated April 4, 2012; Budget and Legislative Sub-Committee Meeting Items 5, 6, 7 and 8; Files 11-1341, 11-1354, 12-0242 and 12-0243; San Francisco Municipal Transportation Agency (SFMTA)  
**Attachments:** SFMTAMemo0532013 doc.pdf

Attached please find memorandum in connection with the Budget and Legislative Analyst recommendation in its report (Files 11-1341, 11-1354, 12-0242 and 12-0243) dated April 4, 2012.

Please do not hesitate to contact me if you have any questions.

Nadia.

Nadia Sesay  
Director, Office of Public Finance  
Controller's Office  
City & County of San Francisco  
Phone: 415.554.5956  
Email: [nadia.sesay@sfgov.org](mailto:nadia.sesay@sfgov.org)  
[www.sfgov.org/opf](http://www.sfgov.org/opf)



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

**Ben Rosenfield**  
**Controller**

**Monique Zmuda**  
**Deputy Controller**

**Nadia Sesay**  
**Director**  
**Office of Public Finance**

**MEMORANDUM**

**TO:** Honorable Members, Board of Supervisors

**FROM:** Ben Rosenfield, Controller  
Nadia Sesay, Director of Public Finance

**SUBJECT:** Response to Board of Supervisors Budget and Legislative Analyst Recommendation on the San Francisco Municipal Transportation Agency Revenue Bonds, Series 2012A and Series 2012B

**DATE:** May 3, 2013

In accordance with City Charter Section 8A.102, subject to the concurrence by the City and County of San Francisco Board of Supervisors ("Board"), the San Francisco Municipal Transportation Agency ("SFMTA") has the authority without further voter approval (and notwithstanding the requirements of 9.107, 9.108 and 9.109 of the Charter) to issue bonds, notes, certificates of indebtedness, commercial paper program, financing leases, certificates of participation or any other debt instruments for SFMTA purposes. Additionally, the Board of Supervisors may authorize the SFMTA to incur on behalf of the City such debt or other obligations provided: (a) "the Controller first certifies that sufficient unencumbered balances are expected to be available to meet payments under such obligations as they come due and (b) any debt obligation, if secured, is secured by revenues or assets under the jurisdiction of the SFMTA."

On April 10, 2012, the Board authorized the SFMTA to issue up to \$80.0 million of its revenue bonds. In conjunction with Board consideration of that item, the Board Budget and Legislative Analyst ("Budget Analyst") of the City and County of San Francisco in its report (Files 11-1341, 11-1354, 12-0242 and 12-0243) recommended that the Controller provide a report to the Board on "the costs and benefits of (a) using outside financial advisors, (b) using in-house City debt management staff, and (c) SFMTA's initial revenue bond issuances." This memorandum addresses the recommendation of the Budget Analyst. For purposes of this memorandum, we have reviewed the financial advisory contracts of the SFMTA and such other documents and certifications appropriate for our review. We did not undertake a performance audit of such financial advisory contracts, and our comments here will necessarily be of a general nature.

On July 11, 2012 the SFMTA issued revenue bonds in an aggregate principal amount of \$63.795 million consisting of \$37.96 million in refunding bonds (“Series 2012A”) and \$25.835 million in new money bonds (“Series 2012B” collectively, the “2012 Bonds”). The 2012 Bonds were issued at a true interest cost of 3.82%. The proceeds of the Series 2012A refunded four existing City-owned parking garage and one existing parking meter revenue bond issue. The refunding bonds achieved \$6.7 million in net present value savings or approximately 15.8% of refunded principal. The proceeds of the new money bonds financed the costs of the planning, design, acquisition, construction, reconstruction, rehabilitation or improvement of certain projects. The results of the transaction are further discussed below.

### **Role and Engagement of Outside Financial Advisor**

It is a customary practice for issuers of municipal bonds to retain several outside parties that will assist in the structuring and execution of a bond sale. The Government Finance Officers Association (the “GFOA”), the leading standard setting organization for state and local governments, recommends that issuers retain a financial advisor, together with other finance professionals, in the early stages of a financing to enable the issuer to access the market on the most advantageous terms. While much of the City’s debt management expertise is in-house, there is nonetheless a need to retain outside financial expertise to construct solid plans of finance. In general, the scope of work for the financial advisors includes assisting the issuer (i) devise a lien structure for a plan of finance over a specified time horizon, (ii) prepare requests for proposals for other parties to a transaction (i.e., underwriters, trustees, verification agents, pricing agent, etc.), (iii) develop a strategy for, and coordinate the credit rating process, and serve as a liaison between the issuer and the credit rating agency, and (iv) evaluate/validate the pricing of the bond issue on the day of sale. In addition, a financial advisor assists the issuer make the critical decision of whether, due to market conditions or the nature of the transaction (e.g. new credit and debt program, refunding transaction, or a transaction with unique or complex credit characteristics), it is advantageous to pursue a negotiated sale. If a negotiated sale is pursued, the financial advisor will assist the issuer in selecting the underwriter, determining the compensation of the underwriter and advising the issuer on the day of sale about prevailing pricing for comparable issues.

While there has not been a significant level of research on the costs and benefits of utilizing financial advisors in the issuance of municipal bonds, a 2005 study titled “The Role and Impact of Financial Advisors in the Market for Municipal Bonds” (Kenneth Daniels and Jayaraman Vijayakumar, Virginia Commonwealth University; School of Business) examined the benefits to issuers and market participants arising from the role of the financial advisors in the issuance of bonds. The authors concluded that the financial advisors have significant impact on borrowing costs, reoffering yields and underwriter gross spreads, and that the result is more pronounced for the revenue bonds, particularly for negotiated revenue issues. In addition, the results showed significant advantages to using a financial advisor for refunding issues. Although this office did not perform such a cost benefit analysis for purposes of this report, we would expect to find similar benefits in terms of more sophisticated market surveillance which results in lower underwriting spreads and borrowing costs. This office also believes that these benefits exceed costs of obtaining financial advisory services, if managed appropriately.

A contract with a financial advisor may be structured in a number of ways. The three most frequent engagement structures are: (i) selecting financial advisor(s) for each transaction by a competitive solicitation process (“RFP”); (ii) selecting financial advisor(s) through a competitive solicitation process to establish a pool of pre-qualified financial advisors with a two to three year term and thereafter selecting financial advisors from the pool for each transaction; or (iii) selecting financial advisor(s) on a retainer basis (which could include additional transaction related services).

The Office of Public Finance engages financial advisors after a competitive request for qualifications establishes a pool of financial advisors for up to a two-year term and co-financial advisors are selected from that pool for each transaction. Compensation is fixed and determined based on the level of interaction and tasks assigned for the specific transaction. Pool participants are not provided a retainer, but are compensated for work on specific bond issues.

In the retainer case, the financial advisors work on an “as needed” basis in the administration of the issuer’s debt programs, including work on specific transactions. The fee structure contemplates an annual retainer “not to exceed” amount for the term of the contract. It could also include a per transaction fee for specific financings. For example, the San Francisco Airport engages its financial advisors on a retainer basis. The current SFMTA’s financial advisors engagement is similarly structured.

GFOA recommends financial advisory fees be charged by the hour, with a “not to exceed” cap. This is advantageous to the issuer since compensation based on transaction size can exceed reasonable costs of the hours worked on a transaction. The Office of Public Finance typically uses this approach to establish a fee structure for each transaction. Finally, we note that while other parties to the transaction may be paid on a contingency or success basis, the GFOA recommends that financial advisory fees should not be paid on a contingent basis to ensure the financial advisors provided objective advice on the benefits of a given transaction. GFOA recognizes, however that this may be difficult given financial constraints of many issuers. In the case of contingent compensation arrangements, issuers should undertake ongoing due diligence to ensure that the financing plan remains appropriate for the issuer’s needs.

### **SFMTA’s Financial Advisors**

In September 2009, the SFMTA through a competitive RFP process selected three financial advisory firms to assist the SFMTA to comprehensively analyze and develop a financial plan. The firms selected were Public Financial Management Group (“PFM”), Backstrom McCarley Berry and Company (“Backstrom”) and Ross Financial (together, the “SFMTA Financial Advisors”). These firms are all highly regarded in the industry and have been used by other city departments for debt management activities, including successfully bringing bond issues to market.

The contracts were for terms of five years. Services payable under the contracts are up to \$2.0 million for each financial advisor, or a total estimated need for financial advisory services authorized at \$6.0 million. The average rate payable by the SFMTA is approximately \$250 per hour. Of the \$6.0 million authorized for financial advisory fees, \$3.0 million was encumbered and

\$671,638 (including \$240,000 for the 2012 Bonds) has been expended to date. It should be noted that while PFM and Backstrom assisted the SFMTA on the issuance of the 2012 Bonds and other credit and credit enhancement related issues, Ross Financial has been specifically assigned to the BREDA leaseback issues as well as provide support to the revenue panel and revenue option examination. In addition, the SFMTA has various capital projects in the pipeline that require financial and cash flow analysis, for example, the Central Subway project, Geary and Van Ness Avenue bus rapid transit, etc.

We understand that the SFMTA plans to issue a second series of bonds and further that the SFMTA desires to establish a commercial paper program.. If the SFMTA believes that it has significant financial management needs, it may be more cost effective to hire one or more permanent staff members (experienced in public finance/debt management practices) and utilize the resources of the Office of Public Finance. It is likely that hiring one or more staff persons would have the virtue of enhancing the financial management capacity of the SFMTA and also increase the institutional knowledge. While the retention of permanent staff and the assistance of the Office of Public Finance staff would not eliminate the need for outside financial advice, it should result in a more cost-effective use of SFMTA resources.

#### ***2012 Bonds Financial Advisor Expenditures***

We understand that the fees paid for financial advisory services in connection with the 2012 Bonds were \$240,000. While we do not know all of the services that are represented by such fees, we are aware that the work to bring the matter to market was considerable.

It is important to note that the SFMTA did not have any debt outstanding prior to the issuance of the 2012 Bonds. Nor did the SFMTA carry a credit rating by either rating agency. As such, a significant level of work was involved in determining an overall plan of finance, planning and executing the credit rating process and structuring of the 2012 Bonds. With the introduction of a new credit to market, the financial advisors interface with both the rating agencies and the investor communities to make sure the market understands the strengths and challenges faced by the credit. Critical too, the financial advisors were responsible for ensuring that communications between the underwriting team and the issuer (in this case the SFMTA) is monitored and that the SFMTA's financing goals and objectives are achieved.

We note that the ratings achieved by the SFMTA were "Aa3" by Moody's and "A" by Standard and Poor's. These ratings reflect not only a credit analysis by the respective rating agencies but also a commentary on the approach, management expertise and business of the SFMTA. We believe the financial advisory services fees reflect value added expertise that will be amortized over the life of the current bonding program.

#### **The Controller's Office of Public Finance Debt Management Staff & Financial Advisors**

The Office of Public Finance through a competitive RFP established a financial advisory pool of thirteen firms in October 2011. The financial advisory pool expires December 2013. The firms within the pool may be retained as financial advisors in connection with debt financings on behalf of any City division or other public City entity including, but not limited to, the Public

Utilities Commission, Port of San Francisco, Airport Commission, the SFMTA, and other external agencies of the City. In addition, the City or any other public City entity may issue RFPs for specific financings or for general financial consulting services.

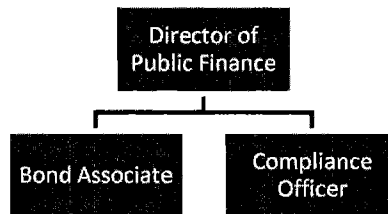
For a typical City debt issuance, two firms are selected and a professional services contract is entered into with each firm, providing an hourly fee capped at a not to exceed amount. The table describes the annual financial advisory fees incurred, total issuances per year, and aggregate par amounts from fiscal years 2006-07 through 2012-13 (through March 2013).

**Summary of publicly offered debt obligations issued from Fiscal Years 2006-07 through 2012-13 (through March 2013), Controller's Office of Public Finance.**

	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2013 to date	FY 2007-13 Total
Transactions	6	4	6	5	6	5	1	33
Agg Par Amount	367,920,000	356,780,000	635,240,000	670,935,000	448,750,000	809,585,000	289,365,000	3,578,575,000
FA Fees	259,000	227,000	371,000	342,000	349,000	320,000	65,000	1,933,000

Since fiscal year 2006-07, the City, through the Office of Public Finance, has issued \$3.6 billion in various obligations, averaging five transactions and approximately \$495.9 million in par amount (or notional amount) per year, excluding certain capital leases and other transactions for which financial advisory firms are not typically assigned. Over the same period, the City has incurred financial advisory charges totaling \$1.9 million; hourly fees for financial advisors range from \$200 to \$350 per hour. The average rate payable by the Office of Public Finance is approximately \$260 per hour.

The figure below illustrates the current staffing of the Controller's Office of Public Finance.



**Organization Chart, Controller's Office of Public Finance, as of March 2013.**

In addition to bringing transactions to market, the Office of Public Finance manages initial, annual and continuing disclosure; monitors arbitrage rebate and debt covenants compliance matters; administer invoicing and disbursements; devise strategies for the investments of bond proceeds; procure professional services contract; and undertakes other debt related tasks in connection with the City's \$2.9 billion debt portfolio. The Office of Public Finance staffing consists of three full time public finance staff members and thus does not rely exclusively on financial advisors to administer its debt program and undertake other financial related analysis. Historically, the Office of Public Finance has been engaged by other City departments to undertake debt issuances on their behalf, particularly departments without debt management staff and in some instances, when the department is an infrequent issuer.

## **SFMTA's Initial Revenue Bond Issuance**

On June 27, 2012, SFMTA priced its 2012 Bonds in the principal amount of \$37.96 million (new money) and its 2012B Bonds in the principal amount of \$25.835 million (refunding bonds). The following firms served as underwriters for the transaction: J.P. Morgan, Morgan Stanley, RBC Capital Markets, and Siebert Brandford Shank & Co., L.L.C. (the Underwriters). SFMTA engaged PFM and Backstrom to serve as financial advisors.

The Bonds were sold at a true interest cost of 3.82% and the refunding portion of the Bonds achieved \$6.7 million of net present value savings or approximately 15.80% of refunded principal. For comparison, on June 6, 2012, the City issued its Certificates of Participation Series 2012A to finance various street improvements with a true interest cost of 3.59%. While the City's transaction priced approximately 0.23% better than the SFMTA Bonds, the pricing differential likely reflects the difference between the security underlying the credit (i.e. transportation credit versus a general fund credit) and also, the fact that the City is a frequent issuer.

## **Conclusion**

The use of financial advisors for municipal debt transactions is customary practice in the municipal finance market, and is recommended by the GFOA. The use of financial advisors depends on a number of factors, including most critically, the nature of the credit (new credit versus an established credit, etc.), thus the level of financial advisory services needed will vary. As such, it is difficult, if not impossible, to provide an empirical comment on costs and benefits to engaging financial advisors and the appropriate fee levels for such services. Nonetheless, this office believes that the use of financial advisors produces benefits in terms of more sophisticated market surveillance which results in lower underwriting spreads and borrowing costs, and these benefits exceed the costs of financial advisory services (provided these services are appropriately managed).

The 2012 Bonds priced successfully and the true interest cost of 3.82% was favorable with tax-exempt rates well below historical averages achieving \$6.7 million in net present value savings or approximately 15.80% of refunded principal. The SFMTA paid financial advisory fees for that transaction of \$240,000. The fee levels appear to be reasonable given the work necessary to bring the bond issue to market.

If SFMTA believes that it has significant financial management needs, it may be preferable to hire one or more experienced permanent staff members rather than continuing to rely on external financial advisors. Hiring staff would enhance debt management capacity of the SFMTA and increase the debt management institutional knowledge. The cost of adding permanent staff can be reduced because cost associated with the issuance of bonds can be recovered within the bond issue. Given that the Charter requires Board concurrence, together with Controller certification, for SFMTA bond issuance SFMTA should more closely coordinate its debt management activities closely with the Office of Public Finance. This will serve the twin benefits of assuring that the Controller's office is kept apprised of SFMTA's financing plans but

also create opportunities for the SFMTA to take advantage of the in-house expertise of that office. The likely retention of permanent staff and the coordination with the Office of Public Finance to administer SFMTA's debt program would not eliminate the need for external financial advisory expertise; but would likely result in a more cost effective use of SFMTA resources.

To that end, the SFMTA should more closely coordinate its debt program with OPF and, when appropriate (i.e. when the current financial advisory contracts expire), transition its financial advisory vendor relationship to transaction based arrangements.

Cc (via email):Angela Calvillo, Clerk of the Board

Ed Reiskin, San Francisco Municipal Transportation Agency

Sonali Bose, San Francisco Municipal Transportation Agency

Jason Elliott, Mayor's Office

Harvey Rose, Budget Analyst

Kate Howard, Mayor's Budget Director



City and County of San Francisco



Edwin M. Lee, Mayor

BOS-11, cpage  
Human Services Agency

Department of Human Services  
Department of Aging and Adult Services

Trent Rhorer, Executive Director

MEMORANDUM

April 26, 2013

TO: Angela Calvillo, Clerk of the San Francisco Board of Supervisors  
Ben Rosenfield, Controller of the City and County of San Francisco

THROUGH: Human Services Commission

FROM: Trent Rhorer, Executive Director  
Emily Gerth, Senior Budget Analyst

SUBJECT: **Human Services Care Fund: FY12-13 3<sup>rd</sup> Quarter Update**

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2013 APR 30 AM 9:58  
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This memo is intended to notify the Board of Supervisors and the Office of the Controller that pursuant to Administrative Code Sections 10.100-77(e), the Human Services Commission has approved the Human Services Agency's revised FY12-13 savings projections for the Human Services Care Fund.

**The FY12-13 savings in homeless CAAP aid payments resulting from the implementation of *Care Not Cash* is now projected at \$13,727,307, which is roughly fifteen hundred dollars less than previously estimated. The projected savings are around twenty-eight thousand dollars more than the budgeted amount for FY12-13.**

*(memo continued on next page)*

The actual CAAP homeless caseload for the third quarter was used to update the projections for the remainder of FY12-13 (shown in the table below). Current projections estimate Care Fund savings will be around fifteen hundred dollars less than was previously projected for FY12-13.

Month	Previous Quarterly Update (Q2 FY12-13)	Current Quarterly Update (Q3 FY12-13)	Difference
Jul-12	\$1,142,037	\$1,142,037	\$0
Aug-12	\$1,143,564	\$1,143,564	\$0
Sep-12	\$1,142,917	\$1,142,917	\$0
Oct-12	\$1,143,297	\$1,143,297	\$0
Nov-12	\$1,144,472	\$1,144,472	\$0
Dec-12	\$1,145,145	\$1,145,145	\$0
Jan-13	\$1,144,160	\$1,141,800	(\$2,360)
Feb-13	\$1,144,483	\$1,144,015	(\$468)
Mar-13	\$1,144,677	\$1,145,500	\$823
Apr-13	\$1,144,677	\$1,144,779	\$102
May-13	\$1,144,677	\$1,144,890	\$213
Jun-13	\$1,144,677	\$1,144,890	\$213
<b>Total FY12-13</b>	<b>\$13,728,784</b>	<b>\$13,727,307</b>	<b>(\$1,477)</b>

NOTE: Shaded figures are *actuals* (versus *projections*).

The FY12-13 budgeted amount for the Human Services Care Fund is \$13,698,867. As shown below, current projections are roughly twenty-eight thousand more than this budgeted amount.

**FY12-13 Human Services Care Fund  
Budget Comparison**

Budget	\$13,698,867
Current Projections	\$13,727,307
Amount Under-Funded	\$28,440



RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

BOS-11  
cpages

2013 MAY -1 AM 10:07

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

April 30, 2013

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

Dear Ms. Calvillo:

Please find attached the Recreation and Park Department's report for the 3<sup>rd</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.

Current activity includes revising our project management procedures to improve staff participation and beginning our periodic technical review. The purpose of these reviews is to keep the program and procedures current and relevant.

The next site identified for work 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, 3<sup>rd</sup> Quarter Status Report  
2. Status Report for All Sites

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

Attachment 1. Implementation Plan Status Report

## 3<sup>rd</sup> Quarter Status Report

Plan Item	Status
<b>I. Hazard Identification and Control</b>	
<b>a) Program Revision</b>	A revision of the project management procedures is underway. The purpose of this revision, which is part of our periodic check, is to ensure that the program is in line with current regulations, and to offer stakeholders greater opportunity for involvement.
<b>b) Site Prioritization</b>	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.  Prioritization lists by fiscal year are no longer generated. Sites are selected on a rolling basis; as one site is completed, the next site on the list becomes active.
<b>c) Survey</b>	No surveys are currently active or scheduled while we complete clean-up projects.
<b>d) Clean-up</b>	Clean up at the Exploratorium (and Theater) will begin shortly.
<b>e) Site Posting and Notification</b>	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.
<b>f) Next site</b>	Priority 147, Kezar Pavilion.
<b>II. Facilities Operations and Maintenance</b>	
<b>a) Periodic Inspection</b>	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.

**b) Housekeeping**

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).

**c) Staff Training**

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

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
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				
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				



**Status Report for RPD Sites**

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
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			
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			

### Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
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./JustinDr.	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			
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.		

### Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
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.		
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.		

### Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
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			
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		

### Status Report for RPD Sites

Priority	Facility Name	Location	Completed	Notes	Retest	Entered in FLOW Program
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
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.		
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		
	Visitation 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		



# Capital Planning Committee

Naomi M. Kelly, City Administrator, Chair

## MEMORANDUM

April 15, 2013

**To:** Supervisor David Chiu, Board President

**From:** Naomi Kelly, City Administrator and Capital Planning Committee Chair

**Copy:** Members of the Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Capital Planning Committee

*nkelly*

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
MAY -2 PM 3:02  
AK

**Regarding:** Authorizations to Issue and Related Supplemental Appropriation Requests for the 2010 Earthquake Safety and Emergency Response (ESER) General Obligation (G.O.) Bond (\$32,800,000), the 2011 Road Repaving and Street Safety G.O. Bond (\$137,000,000), and the 2012 Clean and Safe Neighborhood Parks G.O. Bond (\$76,100,000).

In accordance with Section 3.21 of the Administrative Code, on April 15, 2013, the Capital Planning Committee (CPC) reviewed three authorizations of debt issuance and related supplemental appropriation requests.

**1. Board File Number 130368**      **Authorization to issue up to \$32,800,000 in G.O. Bonds and approval of related supplemental appropriation request for the Earthquake Safety and Emergency Response (ESER) Bond Program**

**Recommendation:** Recommend the Board of Supervisors approve the authorization to issue and supplemental appropriation.

**Comments:** The CPC recommends approval of these items by a vote of 11-0.

Committee members or representatives in favor include: Naomi Kelly, Office of the City Administrator; Ed Reiskin, SFMTA; Robert Carlson, Public Works; Thomas DiSanto, Planning Department; Julia Dawson, San Francisco International Airport; Catherine Rauschuber, Board President's Office; Ben Rosenfield, Controller's Office; Todd Rydstrom, SFPUC; Phil Ginsburg, Recreation and Parks Department; Elaine Forbes, Port of San Francisco; and Melissa Whitehouse, Mayor's Budget Office.

**2. Board File Number 130363**

**Authorization to issue up to \$137,000,000 in G.O. Bonds and approval of related supplemental appropriation request for the Road Repaving and Street Safety Bond Program**

Recommendation:

Recommend the Board of Supervisors approve the authorization to issue and supplemental appropriation.

Comments:

The CPC recommends approval of these items by a vote of 11-0.

Committee members or representatives in favor include: Naomi Kelly, Office of the City Administrator; Ed Reiskin, SFMTA; Robert Carlson, Public Works; Thomas DiSanto, Planning Department; Julia Dawson, San Francisco International Airport; Catherine Rauschuber, Board President's Office; Ben Rosenfield, Controller's Office; Todd Rydstrom, SFPUC; Phil Ginsburg, Recreation and Parks Department; Elaine Forbes, Port of San Francisco; and Melissa Whitehouse, Mayor's Budget Office.

**3. Board File Number 130371**

**Authorization to issue up to \$76,100,000 in G.O. Bonds and approval of related supplemental appropriation request for the Clean and Safe Neighborhood Parks Bond Program**

Recommendation:

Recommend the Board of Supervisors approve the authorization to issue and supplemental appropriation.

Comments:

The CPC recommends approval of these items by a vote of 11-0.

Committee members or representatives in favor include: Naomi Kelly, Office of the City Administrator; Ed Reiskin, SFMTA; Robert Carlson, Public Works; Thomas DiSanto, Planning Department; Julia Dawson, San Francisco International Airport; Catherine Rauschuber, Board President's Office; Ben Rosenfield, Controller's Office; Todd Rydstrom, SFPUC; Phil Ginsburg, Recreation and Parks Department; Elaine Forbes, Port of San Francisco; and Melissa Whitehouse, Mayor's Budget Office.





# Capital Planning Committee

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2013 MAY -2 PM 3:01

Naomi M. Kelly, City Administrator, Chair

## MEMORANDUM

May 1, 2013

**To:** Supervisor David Chiu, Board President *nkelly*

**From:** Naomi Kelly, City Administrator and Capital Planning Committee Chair

**Copy:** Members of the Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Capital Planning Committee

**Regarding:** Supplemental Appropriation Request for the San Francisco Public Utilities Commission Water System Improvement Program (\$54,927,412)

In accordance with Section 3.21 of the Administrative Code, on April 29, 2013, the Capital Planning Committee (CPC) reviewed one action item under consideration by the Board of Supervisors – a supplemental budget appropriation request by the San Francisco Public Utilities Commission (SFPUC). The CPC's recommendations are set forth below as well as a record of the members present.

**1. Board File Numbers TBD: Supplemental budgetary ordinance appropriating \$54,927,412 for the SFPUC Water System Improvement Program**

**Recommendation:** Recommend the Board of Supervisors approve the ordinance.

**Comments:** The CPC recommends approval of these items by a vote of 10-0.

Committee members or representatives in favor include: Naomi Kelly, Office of the City Administrator; Judson True, Board President's Office; Kate Howard, Mayor's Budget Office; Ed Reiskin, SFMTA; Mohammed Nuru, Public Works; John Rahaim, Planning Department; Ivar Satero, San Francisco International Airport; Ben Rosenfield, Controller's Office; Harlan Kelly, SFPUC; and Dawn Kamalanathan, Recreation and Parks Department.

**NOTICE OF PUBLIC HEARINGS**

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**NOTICE IS HEREBY GIVEN** that the following public meetings will be held pursuant to California Health and Safety Code Sections 33450 *et seq.*:

2013 MAY 1 PM 12:56

- A public meeting will be held by the San Francisco Commission on Community Investment and Infrastructure (“Successor Agency Commission”), commission of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (“Successor Agency”) at City Hall, Room 416, located at 1 Dr. Carlton B. Goodlett Place, San Francisco, California, 94102, on Tuesday, May 7, 2013 at 1:00 p.m.; and
- A public meeting will be held by the Oversight Board of the Successor Agency at City Hall, Room 416, located at 1 Dr. Carlton B. Goodlett Place, San Francisco, California, 94102, on Monday, June 10, 2013 at 11:00 a.m.

The agenda for each of these meetings will include consideration for adoption of (1) a proposed amendment to the Mission Bay South Redevelopment Plan (the “Plan Amendment”), and (2) a proposed Third Amendment to the Mission Bay South Owner Participation Agreement by and between the Successor Agency, in its capacity as the successor to the Redevelopment Agency, and FOCIL-MB, LLC (the “OPA Amendment”). Staff has prepared an addendum to the Mission Bay Final Subsequent Environmental Impact Report (the “Addendum”) analyzing the potential environmental impacts of the Plan Amendment pursuant to California Environmental Quality Act Guidelines Section 15164, which concludes that a subsequent EIR is not required to support approval of the Plan or OPA Amendments. The Plan Amendment would permit dwelling units as a secondary use in the Mission Bay South Hotel District, which district consists of the block bounded by Third Street, Channel Street and Park “P3” (Block 8715, Lot 004) (“Mission Bay Block 1”), and would allow a corresponding increase in the total number of dwelling units permitted in the Mission Bay South Plan Area, with a smaller hotel. The OPA Amendment would, among other things, permit the development of up to 350 dwelling units on Mission Bay Block 1 in conjunction with a 250-room hotel and up to 25,000 square feet of retail uses instead of a 500-room hotel and 50,000 square feet of retail uses as now allowed by the Plan.

The legal description of the boundaries of the Mission Bay South Project Area was recorded with the Office of the Assessor-Recorder of the City and County of San Francisco by the Certificate of Correction to the legal description recorded January 20, 1999 as Instrument No. 99-G501704 in Book H304, Page 513, Official Records, a copy of which and is on file at the Successor Agency at One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103.

A draft version of the Plan Amendment, OPA Amendment and Addendum are available for inspection and review by the general public at the Successor Agency’s office at One South Van Ness Avenue, Fifth Floor, San Francisco, California, 94103, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

**SUCCESSOR AGENCY  
TO THE REDEVELOPMENT AGENCY  
OF THE CITY AND COUNTY OF SAN FRANCISCO**

Natasha Jones  
Interim Board Secretary

April 30, 2013

BOS-11 page

TO: STATE, CITY AND LOCAL OFFICIALS

NOTICE OF APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY'S 2014 GENERAL RATE CASE PHASE II APPLICATION (A.13-04-012)

**Background**

On April 18, 2013, Pacific Gas and Electric Company (PG&E) filed the application in the second phase of our 2014 General Rate Case (GRC Phase II) with the California Public Utilities Commission (CPUC). In this application, we are requesting approval from the CPUC to allocate our approved revenue—that is, the amount that the CPUC has authorized for PG&E to collect in rates to operate our utility business—across different customer classes and to design electric rates for these classes. We are proposing this in order to better align our rates with the costs of providing electric service to our customers, and to simplify rates to make them easier to understand.

**Will Rates Increase as a Result of this Application?**

Approval of this application will decrease rates for some customers and increase rates for others. Our GRC Phase II application does not propose any increases in annual revenues, but rather seeks to distribute our approved revenue across different customer groups. The actual rate increases or decreases will depend on the CPUC's final decision in this application, and will go into effect as early as mid-2014.

**Rate and Bill Impacts for Bundled Customers**

Most of our customers are bundled customers, meaning that we provide electricity (generation), transmission and distribution service. Tables presenting a more illustrative description of revenue allocation among customer classes were included in a bill insert announcing this filing that was sent directly to customers in May.

**Rate and Bill Impacts for DA/CCA Customers**

Direct Access (DA) and Community Choice Aggregation (CCA) customers receive only transmission and distribution service from PG&E but purchase electricity (generation) from other suppliers. We charge DA/CCA customers the same distribution and Public Purpose Program (PPP) rates as we do bundled customers. The projected electric rate changes for DA/CCA customers by customer group are also illustrated in a table that was provided in the bill insert that was sent directly to customers in May.

**Rate and Bill Impacts for DL Customers**

Departing Load (DL) customers do not receive generation, transmission or distribution from PG&E but will be affected by our application because they are required to pay the PPP rate. We charge DL customers the same PPP rate as we do bundled and DA/CCA customers. Total DL revenue will be reduced because of a reduction in PPP rates by about \$2.6 million or 6.1 percent.

**FOR FURTHER INFORMATION**

If you have questions regarding the GRC Phase II 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 Phase II Application  
P.O. Box 7442  
San Francisco, CA 94120

You can also view PG&E's GRC Phase II application and exhibits online at [www.pge.com/RegCases](http://www.pge.com/RegCases). Select "GRC 2014 Ph II" from the Cases drop down menu.

A copy of PG&E's 2014 GRC Phase II 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, engineering and rate design. The DRA's views do not necessarily reflect those of the CPUC. Other parties of record, such as those representing various customer groups, will also participate.

**Evidentiary Hearings**

The CPUC will schedule Evidentiary Hearings (EHs) for the GRC Phase II, where parties of record present their proposals in testimony and are subject to cross-examination before the Administrative Law Judge (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. Public Participation hearings are already being held in Phase I of PG&E's GRC (A.12-11-009). Notification of those public participation hearings was already sent to you either by a separate mailing or included as a bill insert in your monthly bill. Customers may also submit written comments to the CPUC at the address listed on the back. All such correspondence to the CPUC should reference PG&E's 2014 GRC Phase II Application (A.13-04-012).

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  
1-415-703-2074 or 1-866-849-8390 (toll free)  
TTY 1-415-703-5282 or 1-866-836-7825 (toll free)  
Email to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)

If you are writing a letter to the Public Advisor's Office, please include the number of the application (A.13-04-012) 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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2013 MAY - 1 PM 3:00



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GSA Public Buildings Service

April 25, 2013

San Francisco  
Board of Supervisors  
City Hall, Room 244  
Dr. Carlton B. Goodlett Place  
San Francisco, Ca. 94102-4689

**Document is available  
at the Clerk's Office  
Room 244, City Hall**

Dear Members of the Board of Supervisors:

The U.S. General Services Administration (GSA) is pleased to submit for your review and comment the enclosed National Register of Historic Places registration package for the U.S. Appraisers Stores and Immigration Station (current name: Appraisers Building) located at 630 Sansome Street, San Francisco, California. The California State Historic Preservation Office has also received a copy and will be reviewing the nomination concurrently.

The sixteen story U.S. Appraisers Stores and Immigration Station, now known as the Appraisers Building, was designed in 1939 by architect Gilbert Stanley Underwood acting as consultant to the Public Buildings Administration (PBA) of the Federal Works Agency and was completed in 1944. The building's exterior composition is an austere example of the Public Works Administration (PWA) Art Moderne building style favored for public structures in the 1930s; the main building entrance and elevator lobbies exhibit the influence of the Art Moderne style. The building has maintained both appraisal and immigration functions from its construction to the present time, playing a significant role in international and Pacific Coast commerce and serving as a primary gateway for Asian entrants to the United States.

In accordance with National Register federal program regulations (36 CFR Part 60.9 (c)), we are notifying you, as chief elected officials of the political jurisdiction within which the property is located, of our intent to nominate the above referenced property to the National Register of Historic Places. Should you have any comments, please respond within 45 days of receipt of this letter.

The enclosed copy of the nomination is provided for your records. Following receipt of all comments or the completion of the 45-day period, we will forward the original archival package to the National Park Service for approval. Upon listing, a final copy of the nomination will be available through the National Register of Historic Places.

Should you have any questions or concerns regarding the nomination package, please contact Beth Hannold at (202) 501-2863.

Sincerely,

Beth L. Savage  
Federal Preservation Officer  
Director, Center for Historic Buildings

Enclosure

cc: Jane Lehman, Regional Historic Preservation Officer

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RECEIVED  
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SAN FRANCISCO

**JACK CLUMECK**  
765 MARKET STREET, #26-A  
SAN FRANCISCO, CA 94103-2038

2013 APR 30 PM 1:06

TEL: (415) 525-3118  
FAX: (415) 655-9310  
CELL: (415) 517-0151  
E-MAIL: [jrclumeck@comcast.net](mailto:jrclumeck@comcast.net)

April 29, 2013

Angela Calvillo  
Clerk of the Board of Supervisors  
Room 244  
City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco CA 94102

Re: 706 Mission Street Tower Project

Dear Members of The Board of Supervisors,

I m writing you in response to your Notice of Public Hearing on Tuesday, May 7, 2013, dated April 25, 2013 and mailed on April 26, 2013, as permitted and indicated therein.

I was among those who spoke at the Planning Commission meeting on August 2, 2012, and delivered to them a transcript of my comments regarding the Draft EIR for the 706 Mission Street Tower Project.

I was dismayed last month when I received the EIR that had been reviewed and presented by the Planning Department staff. The only consistent comment was that there was almost universally "no significant impact" from the several thoughtful and considered concerns that were expressed by many persons attending the meeting, whether lay people or experts.

I am unable to understand or reconcile these findings with what is the actual situation currently affecting the access and egress along Stevenson Alley west of Third Street and the impact on the already often grid-locked Third Street and its more often than not blocked intersection at Stevenson Alley that would be further exacerbated by allowing the 706 Mission Street Tower's residents' and visitors' cars to add to the already egregious and dangerous situation that currently exists in Stevenson Alley.

Historically, Stevenson Alley was just that—a narrow one-way alley for deliveries to businesses fronting on Market Street. Despite its now seemingly being a two-way thoroughfare, one of its two narrow lanes is often blocked for the same delivery activities, despite the "No Parking-Tow Away" signs that are prominently displayed, but never, to my knowledge, enforced by DPT or SFPD. When this occurs, cars are delayed and then forced to queue, swerve, or "play chicken" to proceed down or up the alley.

Page 2 (of 2)


To: The Board of Supervisors of the City and County of San Francisco  
Re: 706 Mission Street Tower Project  
April 29, 2013

In addition, entering or crossing Third Street further impedes the safe and orderly traffic flow into and out of Stevenson Alley. Despite the fast fading and seemingly unnoticeable or unnoticed painted "KEEP CLEAR" markings in the intersection, again, more often than not, there seems to be no attention paid to these markings by traffic on Third Street, including the Muni busses that operate in the far right lanes. Once again, there has, to my knowledge, been no DPT or SFPD enforcement of this situation, as well as of the often running of the red light by drivers seeking to reach Market Street and ignoring the stop signals at Stevenson Alley.

I also have concerns about the integrity of Jessie Plaza, which was originally conceived and designed to have three buildings (St. Paul's Church, The Contemporary Jewish Museum, and a free-standing Mexican Museum) of similar size, scale, and mass at its boundaries. If the 706 Mission Street Tower is allowed to move westward onto the original Mexican Museum parcel, this massive structure will dwarf, shade, and overpower the intimate and pleasant plaza (as well as at its present proposed height and mass casting its gigantic shadow across Market Street and onto Union Square in contravention of the shadow ordinance that was voted-in to preclude such a negative impact and intrusion).

For these reasons, I request that the Board of Supervisors consider these deficiencies that appear to be contained in the EIR as presented by the Planning Department and its staff, and see that the "no significant impact" conclusions are, in fact, faulty and should be reconsidered, addressed, and corrected before approval is granted for the 706 Mission Street Tower project as currently proposed by the EIR.

Thank you for your consideration.



Jack R. Clumeck, Jr.

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765 MARKET STREET RESIDENTIAL OWNERS ASSOCIATION

BOARD OF DIRECTORS

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735 Market Street  
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San Francisco, CA 94103

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2013 MAY -6 AM 11:45  
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May 5, 2013

Honorable Jane Kim, Supervisor  
Members of the Board of Supervisors  
Members of the Planning Commission  
Members of the Historical Preservation Commission  
Members of the Commission on Community Investment and Infrastructure  
Members of the Recreation and Parks Commission

Re: Pending Entitlements for the 706 Mission Street Project

Dear Supervisor Kim and Members of the Board of Supervisors; Members of the Planning Commission; Members of the Historic Preservation Commission; Members of the Commission on Community Investment and Infrastructure; and Members of the Recreation and Parks Commission:

We are writing to you regarding your agencies' intent to grant a host of legal entitlements and real estate interests to the developer of the 706 Mission Street project. We have deep concerns about the troubling facts surrounding the 706 Mission Street Development. This project, if approved in its current size and configuration, would bring serious impacts to the pedestrian safety and traffic flow of our neighborhood, devastate the character and usability of area parks at Jessie Square, Yerba Buena Gardens and Union Square and would have unacceptable consequences to the Historic Preservation District and the historically significant Aronson Building. All of these issues, and more, are summarized in an Appendix at the end of this letter and contained in our CEQA appeal.

The source of nearly all of the impacts of this development stem from the building's excessive height and intensity far above the current allowed zoning. Perhaps most troubling to us, and hopefully to you as well, is that none of these impacts are necessary to financially support the Mexican Museum. Our initial economic analysis leaves us with the impression that the developer is exploiting its association with the museum to achieve public subsidies and preferential zoning to increase its own profits.

## **Public Subsidy**

In our opinion the value of the assets being transferred to the developer is well in excess of the liabilities that the developer would assume even without any modifications to the existing zoning and height restrictions, without the creation of a Special Use District and adhering to the proposition K regulations so as to not create any further shadowing on Union Square. The proposed development of 706 Mission provides for the following subsidies:

- 10,000 square feet of land.
- The transfer of the parking garage at Jessie Square that currently parks approximately 442 cars, in exchange for an undisclosed balance due on the garage's bonds. In the proposal the project will increase the lot to 470 spaces--260 will be converted to permanent private use for residents of the proposed tower and 210 will remain paid parking, but under the control and management of the developer instead of the City.
- Increased floor area through achieving greater FAR due to the proposed exception of this project from existing zoning regulations and/or the transfer of public parcels without which a project not even one third of the proposed building mass could be achieved.

In our opinion the value of the assets being given to the Developer is well in excess of 50-60 million and is very far in excess of any contribution being made to the Mexican Museum. (a onetime donation of \$5 million dollars and the donation of space in the form of a shell.)

Based on a preliminary review we believe that this subsidy to Millennium, at a minimum, is at least \$20,000,000 to \$30,000,000 greater than the benefit to the Museum. Surely with this level of subsidy the developer could build a reasonable project that includes the Mexican Museum within existing zoning that would provide them with fair return on their investment. Because of this there is no basis for granting any height variances, a Special Use District or a project that violates Proposition K requirements.



## **Preferential Treatment**

Instead of taking the extensive public subsidies bestowed upon them and putting forward a project within existing zoning that recognizes the historic character of the development site and honors the voter mandated Shadow Ordinance, Proposition K, the developer, Millennium Partners, chose to parlay its subsidy into an even greater financial bounty by pursuing preferential treatment and zoning with a project that:

- Greatly exceeds the current zoning.
- Requires a Special Use District (for a single project) with no identified public benefit.
- Violates Proposition K restrictions by shadowing protected parks like Union Square as well as unprotected parks like Jessie Square and at the same time physically dominating Yerba Buena Gardens more than is necessary.

The treatment of this project stands in marked contrast to the processes used in approval of the buildings located within the Transit Center District less than a block away. There, the approvals have been systematic and made to be consistent with a coherent plan.

The City's process for the Transit Center District Plan understands that there will undoubtedly be significant and unavoidable impacts on the City in the way of traffic, shadows and other environmental impacts associated with height allowances and dense development. Because of these impacts, the plan establishes numerous criteria for development, establishes heights consistent with a thoughtful urban form policy and establishes a number of potential revenue sources (fees) to pay for mitigations associated with the development that is to take place. In fact, the City in April 2012 estimated the plan's positive revenue to be approximately \$600 million in April 2012.

The City's process for the mitigation of the same impacts from the 706 Mission plans, located a few hundred feet from the boundary of the City's Transbay District Plan, contains none of the same mitigations for the same impacts experienced as a result of its spot zoning approach tailored to the needs of the developer.

We ask you if this seems right? On one block we ask developers to pay their fair share of the impacts created by their development, but on the next far more sense one, we create a special use district that donates public resources that increase the profits of a developer seeking to build and sell some of the City's most expensive luxury condos?

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We understand the benefit of completing the assemblage of Jessie Square public spaces with the Mexican Museum space and in fact welcome it as a final public cultural facility in Jessie Square. We also think the museum could be better presented instead of being buried in this condominium development

What we cannot understand and accept is the out of proportion subsidy and bonanza of preferential zoning that violates existing regulations, voter mandates and reason with no corresponding public benefit. These actions, collectively, are primarily bestowed upon a luxury condo developer with only a small benefit to the Mexican Museum. The planning approach and the major transfer of public assets demonstrate a significant departure from City policy and grants exemptions to City regulations and zoning far in excess of any identifiable public benefit

For years, we have tried to negotiate in good faith with the developer with little success. We are asking for the City's support in revising this project and rejecting its inadequate environmental analysis. We ask you to direct the project be reviewed by the City's Budget Analyst to help reveal the level of subsidy being proposed. We believe both of these things are critical to moving forward with a successful development at the site that features the Mexican Museum without the unnecessary adverse impacts to the remainder of the public.

For your convenience we have attached an Appendix with the inadequacies of the environmental review of this project that necessitate the City to conduct further analysis. Failure to do so will result in unnecessary and costly litigation that will delay and impede this development and slow or destroy the option of relocating the Mexican Museum to this most appropriate site. In mitigating the noted impacts we believe that we can find a resolution that does not involve such a significant gift of public funds and does not present such unacceptable impacts to the City and neighborhood.

Very truly yours,



765 MARKET STREET RESIDENTIAL OWNERS ASSOCIATION

## APPENDIX: 706 Mission Street Appeal Summaries

### **APPEAL RE: HISTORIC PRESERVATION**

1. EIR ignores the fact that the entire Project, including the tower portion, is within the Historic Preservation Commission's (HPC) permitting jurisdiction.
  - The Project falls under the HPC's jurisdiction because:
    - The Project involves demolition of part of a listed significant building
    - Even if the tower did not intrude into the airspace above the Aronson Building, its attachment to the Aronson Building results in increasing the height of the Aronson Building by 39 stories, which is not just the result of the design, it is the developer's specific intent.
    - The tower is new construction partially located on the Aronson Building parcel, and, therefore, within the Conservation District.
  
2. The Project violates several requirements of Planning Code, Article 11
  - Any additions to height of the Aronson Building "shall be limited to one story above the height of the existing roof." The Project violates this rule because the tower will increase the height of the Aronson Building by 39 stories.
  - Any additions to height of the Aronson Building "shall be compatible with the scale and character of the building." The Project violates this rule because the tower is not compatible with the scale or character of the Aronson Building.
  - The Project violates Planning Code § 1113(a) because the tower is not compatible with the scale, particularly the predominant height of the district and the predominant height of the buildings that define the conservation characteristics of the district.
  - The permit application attached to the HPC Case Report states that the 47 building is "removable." This is not true.

3. The EIR Violates CEQA Regarding the Project's Impacts on the Conservation District and Aronson Building.
  - A substantial adverse change in the significance of a historical resource is treated as a significant effect on the environment. Here, the tower will cause these significant adverse effects.
  - The incompatible scale of the tower, represent significant adverse impacts of the Project on the conservation values that Article 11 and the NMMS Conservation District were enacted to protect.

#### **APPEAL RE: AIR QUALITY**

1. Several of the mitigation measures intended to reduce diesel particulate and toxic air contaminant emissions to "less than significant" are not detailed enough to be enforceable or effective, especially regarding the qualifications of the "Environmental Planning Air Quality Specialist." Therefore, the EIR's conclusion that such impacts will be less than significant is unsupported.
2. The EIR defers the development of mitigation measures to reduce emissions to "less than significant" to the post-approval preparation and "approval" of a "Construction Emission Minimization Plan." But the EIR presents no evidence suggesting that developing this Plan now is impractical or infeasible; therefore, this procedure violates CEQA
3. EIR's uses inappropriate and inapplicable thresholds of significance for assessing the Project's emissions of criteria air pollutants

#### **APPEAL RE: SHADOW IMPACT ON UNION SQUARE AND NOISE IMPACT**

1. Shadow Impacts on Union Square
  - San Francisco has adopted a substantive limit on development prohibiting the approval of buildings subject to the ordinance casting new shadows on Union Square between one hour after sunrise and one hour before sunset unless the Planning Commission finds the resulting adverse impact on use of the park to be less than significant.
  - Under CEQA, before deleting or modifying a previously adopted mitigation measure, the lead agency "must state a legitimate reason" and "must support that statement of reason with substantial evidence."
  - Here, the EIR offers no legitimate reason to water down the protections and the cumulative shadow limit for Union Square

## 2. Noise Impacts

- The EIR's analysis of whether Construction Noise will be significant with the adoption of Mitigation Measures does not meet CEQA's requirements for the informational content of an EIR.
- The EIR suggests that the Project can violate these interior noise standards without causing a significant impact because, as "non-permanent" generators of noise, the Project's construction equipment is exempt from section 2909(d). The EIR does so by falsely asserting that section 2909 includes the word "permanent" as a limitation on the types of noise sources that will be considered "fixed" and therefore subject to these interior noise standards.
- The EIR's assumption in this regard violates CEQA, because compliance with regulatory standards cannot be used as a substitute for a fact based analysis of whether an impact is significant. While San Francisco is free to adopt a Noise Ordinance that exempts specific noise sources from its regulatory effect, it is not free, under CEQA, to fail to disclose the significance of noise that exceeds these interior noise limits.

## **SUPPLEMENT TO APPEAL**

### 1. Traffic and Circulation Impacts.

- Incorrect critical movement assumptions result in a flawed analysis of alternatives
- Trip distribution assumptions are inaccurate in suggest greater impacts than reality
- The analysis does not account for vehicle delays caused by increases in pedestrian volumes
- Excessive onsite parking creates traffic impacts
- There is an absence of improvement measures aimed at reducing vehicle trips

### 2. The EIR does not lawfully assess the significance of the Project's impacts on pedestrian traffic and safety.

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3. Shadow Impacts on Union Square.

- The EIR does not lawfully assess the significance of the Project's shadow impacts on several City Parks, including Union Square, lawfully identify and discuss mitigation measures or Project alternatives to substantially reduce these significant impacts, or adequately respond to public comments submitted on these issues.

4. Shadow Impacts on Jessie Square.

- The EIR fails to quantify new shadow the Project would generate on Jessie Square.
- The EIR fails to present any Project alternative that would reduce the Project's new shadow impacts on its immediate neighbor, Jessie Square.
- A new Alternative F should be prepared to address the adverse project shadow effects on Jessie Square.

5. Impacts on Historic Resources

- The Aronson Building is a Category I Significant Building located within the New Montgomery-Mission-Second Conservation (NMMS) District
  - There are several features of the Project that bring the tower portion within the Historic Preservation Commission's permitting jurisdiction and require that the developer obtain the HPC's approval of the tower by way of a permit to alter the Aronson Building or a permit for new construction of the tower in the NMMS District.
  - The western portion of the Aronson Building will be demolished and the tower will be built in its place, directly adjacent to the west side of the reduced Aronson Building. Also, the tower will be physically attached to and programmatically integrated with the Aronson building. Therefore, the tower is an alteration of the Aronson building requiring an HPC permit. Alternatively, the tower is "new construction" partially on the Aronson Building parcel and, therefore, within the Conservation District.
  - The above described rule violations also describe significant adverse environmental effects that the EIR fails to disclose. A substantial adverse change in the significance of a historical resource is treated as a significant effect on the environment. A "substantial adverse change" includes demolition, destruction, relocation, or alteration of the resource or its immediate surroundings resulting in the
-

significance of the resource being materially impaired. Here, the tower will cause these significant adverse effects.

6. Noise Impacts.

- Mitigation Measure for Construction Noise includes a provision requiring 14 days advance notice for activities that will generate noise over 90 db. As the EIR recognizes, generating noise at this level is a significant noise impact. Therefore, the acknowledgment in the mitigation measures that noise will be generated above this level demonstrates that this impact remains significant after mitigation.
- Mitigation Measures for Stationary Operational Noise Sources is mitigated by measures that require compliance with San Francisco's noise ordinance, which provides daytime and nighttime interior receptor standards of 55 dBA and 45 dBA, respectively. State standards, as recognized in the DEIR, establish an interior receptor standard of 45 dBA. Therefore, mitigating to a standard of 55 dBA is not sufficient to find this impact less than significant.

7. Recreation Impacts.

- The Recreation analysis only looks at impacts in terms of physical deterioration and degradation of nearby parks and park facilities. It does not include any information of rates of utilization of these parks and whether the additional population brought to the area will degrade recreation by causing more overcrowding of these parks.

8. Air Quality.

- Construction of the proposed project would result in earth-moving activities and pollutants emitted by construction vehicles.

9. Greenhouse Gas impacts.

- The analysis does not quantify the Project's GHG emissions.
  - A significant fraction of the global warming impact of construction comes from the greenhouse gasses embedded in the construction materials themselves. These materials take energy, and therefore greenhouse gasses, to make.
-

## Board of Supervisors

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**To:** Miller, Alisa  
**Subject:** Pagoda Caper

**From:** Lee Goodin [mailto:lgoodin1@mindspring.com]

**Sent:** Monday, April 29, 2013 3:24 PM

**To:** Board of Supervisors; Chiu, David; Campos, David; Mar, Eric (BOS); Avalos, John; Cohen, Malia; Farrell, Mark; Kim, Jane; Tang, Katy; Wiener, Scott; Yee, Norman (BOS); Breed, London; Lee, Mayor

**Cc:** Lance Carnes; [Cautn1@aol.com](mailto:Cautn1@aol.com); WongAIA; Marc Bruno; CW Nevius; CW Nevius; matierandross; aaron.peskin; Julie Christensen

**Subject:** Pagoda Caper

Supervisors and Mr. Mayor,

All of you should know by now that the Central Subway aka Billion Dollar Boondoggle is a fatally flawed fiasco being promoted for foolish reasons. But with the Pagoda Caper, things have descended to a new abyss of absurdity.

*"Is 'The Pagoda Option' a newly-discovered Robert Ludlum spy novel? Hardly. It's more like a harebrained scheme cooked up by Wile E. Coyote (of Road Runner fame)--- elaborate, expensive, and doomed not to work".  
"Beep Beep!"*

SFMTA/Muni would have you believe that spending an extra one hundred million dollars to drill two 2,000 foot long tunnels from Chinatown into North Beach and dig a big hole at the Pagoda site is necessary to recover two tunnel machines worth less than \$5 million. What?! If anyone can find any logic here, please let me know.

In fact, if the Pagoda caper is executed, it would reportedly be the first time that two tunnels **anywhere in the world** have been extended substantially beyond the end of a subway in order to recover used-up tunnel equipment. One might reasonably ask: "Why not avoid the extensions by disassembling the machines at the Chinatown end of the subway and removing them in pieces the way they came in?" Or, "Why not bury them in an out-of-the-way place under Chinatown?" Better yet, scrap the entire cockamamie concept ... entirely ... now. *"When you find yourself in a hole quit digging."* – Will Rogers

Over the past 8 months the the SFMTA has *repeatedly* ducked such questions. Instead it has doggedly continued to promote its North Beach tunnels, despite its own worsening budgetary condition and despite the fact that it's going to cost at least ninety million dollars more to build the Central Subway stations than the SFMTA thought it would.

For this and other reasons the SFMTA now acknowledges that the \$250 million contingency reserve its Program Manager was bragging about just last Fall is now mostly gone. The latest figures show the reserve as having plummeted to \$53.3 million. That's just 3.4% of the cost of the project...with most of the construction work yet to come.

The danger of the project going over budget was predicted in a FTA/SFMTA risk management analysis released in March of 2010. The analysis concluded that the project had only a 30% chance of coming in on budget and only an 80% chance of holding the overrun to less than \$2 billion, which would put the project \$422 million in the red. To add to the problem, the Federal Transportation Administration has repeatedly warned San Francisco that overrun costs are strictly a local responsibility.

This should concern you ... San Francisco's elected officials.



You have been informed.

CC Curmudgeon

PS: I'm terrible at math ... so perhaps someone could add it all up and determine what the total cost is as of now. And remember that nine years ago it was sold at something over \$600K. Wanna bet it'll be close to \$3 Billion when finished? For a 1.7 mile underground light rail?!

<http://NoNorthBeachDig.org/NNBD/WhatIsPagodaOption.html>

<http://www.savemuni.com>

BOS - 11 delivered by Toni Stein.  
File 130315  
Rules Clerk  
copy

# Strengthened Scientific Circumstances further increase necessity for the City's Right-to-Know Ordinance and Justify a Major Public Health Education Campaign on Cell Phone Safety

May 3, 2013

Dear Honorable San Francisco Board of Supervisors:

Norman Yee  
John Avalos  
Malia Cohen  
London Breed  
Eric Mar  
David Chiu  
David Campos  
Katy Tang  
Jane Kim  
Mark Farrell  
Scott Wiener

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BOARD OF SUPERVISORS  
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MAY - 3 PM 2:04

We commend the Board in having passed the right to know ordinance about cell phones in 2010. Recent scientific research conducted since then affirms the wisdom of this proposal. Therefore, in the interest of the public health of the citizens of San Francisco please consider this recently published scientific information (discussed below), **we urge you to vote against the proposed settlement of the lawsuit filed by the Cellular Telephone Industry Association (CTIA) against the City and County of San Francisco (United States District Court, Northern District of California, Case No. 3:10-cv-03224 (WHA); entitled CTIA - The Wireless Association v. City and County of San Francisco) and continue the litigation in support of the Cell Phone Right-to-Know Law. In particular, please do not authorize any permanent injunction against enforcement of the Cell Phone Right-to-Know Law that was unanimously passed by the SF Board of Supervisors.**

Just one week ago, on April 24<sup>th</sup> the **International Agency for Research on Cancer (IARC) of the World Health Organization issued its Monograph<sup>1</sup> that addresses whether cellular telephone RF EMF radiation presents a risk of cancer to the cell phone users. The IARC re-affirmed its official classification that cellular telephone radiation is a Group 2B carcinogen along with lead, automobile exhaust and other toxic substances including DDT, heptachlor, styrene and hexachlorobenzene and they now released their 480 page Monograph that provides the details of the basis on the classification in this the **most significant government health report on mobile phone radiation ever published.****

The fact that IARC drew this conclusion is particularly important because IARC has a reputation for being extremely difficult to convince before concluding that anything is a carcinogen. The new WHO IARC Monograph concludes that:

<sup>1</sup> IARC Monograph Non-ionizing Radiation, Part 2: Radiofrequency Electromagnetic Fields volume 102 <http://monographs.iarc.fr/ENG/Monographs/vol102/index.php>

*“Due to the closer proximity of the phone to the brain of children compared with adults, the average exposure from use of the same mobile phone is higher by a factor of 2 in a child’s brain and higher by a factor of 10 in the bone marrow of the skull.”<sup>2</sup> (p. 408)*

*“Positive associations have been observed between exposure to radiofrequency radiation from wireless phones and glioma and acoustic neuroma”<sup>3</sup> (p.421),*

*“Radiofrequency electromagnetic fields are possibly carcinogenic to humans (Group 2B).”<sup>4</sup>*

This significant announcement by the cancer experts at WHO accompanies among other peer-reviewed research that has found deleterious, non-thermal effects on the brain and other parts of the body, including sperm damage including reducing sperm motility, and causing deformation in surviving spermatozoa.

This WHO conclusion comes on the heels of many other recent sources to the same effect. For example, your attention is respectfully directed to the following new science science that must be carefully reviewed and weighed in protecting the people of SF:

1. In October, 2012, the Italian Supreme Court ruled the Insurance Body for Work (INAIL) must compensate a worker who developed a tumor in the head due to long-term, heavy use of mobile phones on the job. Importantly, the ruling underscored discrepancies between the low evidence of risk found by industry-funded studies and the higher evidence of risk found by independent studies<sup>5</sup>.
2. The Spanish Labor Court in Madrid ruled ‘permanent incapacitation’ of a college professor who suffered from chronic fatigue and environmental and electromagnetic hypersensitivity<sup>6</sup>.
3. A Dec 2011 study from the Keck School of Medicine, University of Southern California found that statistically significant annual increases in frontal and temporal lobe grade IV brain cancers (glioblastoma multiforme) from 1992 to 2006<sup>7</sup>.
4. Another study published by IARC in 2012 reported that the brain’s frontal and temporal lobe absorbs 69-72% of the total cellphone radiation absorbed by the brain depending on the carrier frequency of the cellphone<sup>8</sup>.

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<sup>2</sup> *Ibid*

<sup>3</sup> *Ibid*

<sup>4</sup> *Ibid*

<sup>5</sup> ICEMS Position Paper on the Cerebral Tumor Court Case, by Livio Giuliani, ICEMS Scientific Secretariat and Spokesman, Morando Soffritti, ICEMS Steering Committee Chairman, <http://www.icems.eu/http://www.radiationresearch.org/images/documents/icems%20position%20paper1.pdf>

<sup>6</sup> <http://www.noticiasmedicas.es/medicina/noticias/10451/1/La-hipersensibilidad-a-las-ondas-que-producen-los-telefonos-moviles-se-convierte-en-una-nueva-causa-de-incapacidad-permanente/Page1.html> and English translation <http://electromagnetichealth.org/electromagnetic-health-blog/labor-court-spain/>

<sup>7</sup> Zada G et al, (March 2012) Incidence trends in the anatomic location of primary malignant brain tumors in the United States: 1992-2006, *World Neurosurg.* 2012 Mar;77(3-4):518-24.

<sup>8</sup> Analysis of three-dimensional SAR distributions emitted by mobile phones in an epidemiological perspective, *Bioelectromagnetics.* 2011 Dec;32(8):634-43.

5. On July 12, 2012, the American Academy of Pediatrics sent a letter to the Federal Communication Commission (FCC) urging that the FCC to open a “formal inquiry into radiation standards for cell phones and other wireless products” adding “The FCC has not assessed the standard for cell phone radiation since 1996.”<sup>9</sup>
6. On March 29, 2013, the FCC issued a proposal to review its safety rules on cell phones based on new scientific findings in a Notice of Inquiry (NOI)<sup>10</sup>.
7. The CTIA released its 2012 year-end survey on May 2nd 2013 reporting that there are now more wireless subscriber connections (326.4 million) in the U.S. than people, and more than 300,000 cell tower sites<sup>11</sup>.

The City and County of San Francisco takes the health of its residents seriously. This is clear from the history of the SF Environment Code, particularly Section 100, **mandating** that the precautionary approach shall be used in making all decisions **affecting the health of our residents** including careful assessment of all available alternatives using the best available science and Section 101 where it articulates that its decisions shall protect against threats of **serious or irreversible damage to its people regardless of full scientific certainty about cause and effect**. *Applicable Code therefore, in the light of these new WHO findings, requires that the City take action to protect its residents from commercial cellular device side effects, by providing notice sufficient to reasonably encourage safe use.*

The City of San Francisco, faces potential major liability costs in the millions of dollars for employees that may be diagnosed with a brain tumor that use cell phones as part of their work. A new peer-reviewed paper (see attached) by Devra Davis, Environmental Health Trust, Santos Kesari from the University of California San Diego, Division of Neuro-Oncology and other experts (which was hand-delivered to the Rules Committee of the Board of Supervisors on April 17, 2013) reports medical cost data estimates

*“...treatment for a single case of brain cancer can cost between \$100,000 for radiation therapy alone and up to \$1 million depending on drug costs, resources to address this illness are already in short supply and not universally available in either developing or developed countries.”<sup>12</sup>*

It is relevant to note that on February 26, 2013, Verizon Communications Inc reported the following liability risk in its Annual Report to the US Securities and Exchange Commission (US SEC)<sup>13</sup>,

*“...our wireless business also faces personal injury and consumer class action lawsuits relating to alleged health effects of wireless phones or radio frequency transmitters, and class action lawsuits that challenge marketing practices and disclosures relating to alleged adverse health effects of*

<sup>9</sup> <http://www.scribd.com/doc/104230961/American-Academy-of-Pediatrics-letter-to-the-FCC>

<sup>10</sup> FCC Review of RF Exposure Policies, REPORT AND ORDER FURTHER NOTICE OF PROPOSED RULE MAKING AND NOTICE OF INQUIRY, <http://www.fcc.gov/document/fcc-review-rf-exposure-policies>

<sup>11</sup> [http://files.ctia.org/pdf/CTIA\\_Survey\\_YE\\_2012\\_Graphics-FINAL.pdf](http://files.ctia.org/pdf/CTIA_Survey_YE_2012_Graphics-FINAL.pdf)

<sup>12</sup> Pathophysiology, pre-release with special permission from the publisher, <http://dx.doi.org/10.1016/j.pathophys.2013.03.001>

<sup>13</sup> <http://www.sec.gov/Archives/edgar/data/732712/000119312513075713/d441535d10k.htm>

*handheld wireless phones. We may incur significant expenses in defending these lawsuits. In addition, we may be required to pay significant awards or settlements.”*

In light of these materially changed circumstances, towards the goal of saving lives in San Francisco, we urge that the Board continue to ensure the public right to know about cell phone safety and assist in promoting broad public understanding of basic precautions that can be taken to reduce radiation exposure from cell phones. People have a right to know about ways to use phones more safely that are currently embedded within phones or in printed in small type in pamphlets they receive after purchasing these devices. We applaud your efforts to promote this basic right.

Very truly yours,

Stanton A. Glantz, PhD: Professor, Department of Medicine; American Legacy Foundation; Distinguished Professor in Tobacco Control; and Director, Center for Tobacco Control Research and Education, University of California, San Francisco (UCSF).

Erik Peper, PhD: Professor; Director of Business Development; Advisor International Olympic Committee; San Francisco State University (SFSU).

Devra Lee Davis, PhD, MPH: Founder and President Environmental Health Trust; Presidential Appointee.

David O. Carpenter, M.D.: Director, Institute for Health and the Environment, University at Albany

Morando Soffritti, MD: Professor and Scientific Director Ramazzini Institute, Bologna, Italy; and General Secretary Collegium Ramazzini, Bologna, Italy.

Anthony B. Miller, MD: former Dean of the Dalla Lana School of Public Health, Toronto; Professor Emeritus of Epidemiology; and IARC Expert Advisor.

Annie J. Sasco, MD, MPH, ScM, DrPH: Director of Research Epidemiology for Cancer Prevention, Inserm (French NIH) Bordeaux University, France; former IARC Unit Chief; and former Acting Chief, WHO Program for Cancer Control.

Darius Leszczynski, PhD: IARC Expert Advisor.

Elihu Richter, MD: Hadassah Medical Center, School of Public Health, Israel.

Yael Stein, MD: Hadassah Medical Center, School of Public Health, Israel.

Prof. Dr. Nesrin SEYHAN: Medical Faculty of Gazi University, Founding Chair, Biophysics Dept.; Founding Director, GNRK Center; Panel Member, NATO STO HFM; Scientific Secretariat Member, ICEMS; Advisory Committee Member, WHO EMF.

Prof. Dr. Süleyman Kaplan: JECM Editor; President of Turkish Society for Stereology; Director of Health Sciences Institute, Ondokuz Mayıs University; Head of Department of Histology and Embryology, Ondokuz Mayıs University, Samsun, Turkey.

Igor Beliaev, Dr.Sc.: Cancer Research Institute at Slovak Academy of Science, Slovak Republic.



# Swedish review strengthens grounds for concluding that radiation from cellular and cordless phones is a probable human carcinogen

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## Abstract

With 5.9 billion reported users, mobile phones constitute a new, ubiquitous and rapidly growing exposure worldwide. Mobile phones are two-way microwave radios that also emit low levels of electromagnetic radiation. Inconsistent results have been published on potential risks of brain tumors tied with mobile phone use as a result of important methodological differences in study design and statistical power. Some studies have examined mobile phone users for periods of time that are too short to detect an increased risk of brain cancer, while others have misclassified exposures by placing those with exposures to microwave radiation from cordless phones in the control group, or failing to attribute such exposures in the cases. In 2011, the World Health Organization, International Agency for Research on Cancer (IARC) advised that electromagnetic radiation from mobile phone and other wireless devices constitutes a “possible human carcinogen.” 2B. Recent analyses not considered in the IARC review that take into account these methodological shortcomings from a number of authors find that brain tumor risk is significantly elevated for those who have used mobile phones for at least a decade. Studies carried out in Sweden indicate that those who begin using either cordless or mobile phones regularly before age 20 have greater than a fourfold increased risk of ipsilateral glioma. Given that treatment for a single case of brain cancer can cost between \$100,000 for radiation therapy alone and up to \$1 million depending on drug costs, resources to address this illness are already in short supply and not universally available in either developing or developed countries. Significant additional shortages in oncology services are expected at the current growth of cancer. No other environmental carcinogen has produced evidence of an increased risk in just one decade. Empirical data have shown a difference in the dielectric properties of tissues as a function of age, mostly due to the higher water content in children’s tissues. High resolution computerized models based on human imaging data suggest that children are indeed more susceptible to the effects of EMF exposure at microwave frequencies. If the increased brain cancer risk found in young users in these recent studies does apply at the global level, the gap between supply and demand for oncology services will continue to widen. Many nations, phone manufacturers, and expert groups, advise prevention in light of these concerns by taking the simple precaution of “distance” to minimize exposures to the brain and body. We note that brain cancer is the proverbial “tip of the iceberg”; the rest of the body is also showing effects other than cancers.

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**Keywords:** Brain cancer; Mobile phone; Non-ionizing radiation; Microwave radiation; Epidemiology; Case–control; Misclassification; Precautionary advice; WHO; IARC; Human carcinogen; 2A; 2B; Acoustic neuroma; Acute lymphoblastic leukemia; Acute lymphocytic leukemia; Acute myelogenous leukemia; lymphoid leukemia; Supply of oncologists; Health services

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**1. Background**

Chronic disease epidemiologists studying the etiology of rare diseases necessarily study people’s past reported or documented exposures over decades to determine how exposure differed between those who succumbed to illness and those who did not. In so doing, epidemiologists rely on a variety of tools having both strengths and limitations.

Examining general time trends of disease and ages of diagnosis can yield hypotheses about *historical* changes in underlying causal factors, but cannot be relied on to predict *future risks*. For example, the relatively rapid growth in lung cancer in women in industrial countries in the 1970s and 1980s provided a broad and long-predicted indication of the impact of smoking. Similarly, reports in the 1980s of surges in rare ailments such as Kaposi’s sarcoma in men under age 30 tied to HIV/AIDS, or rare vaginal adenocarcinoma in pre-adolescent girls whose mothers had taken the hormone di-ethylstilbestrol early in pregnancy, have provided important clues about avoidable etiologic factors.

As a matter of public policy, societies around the world are paying the price now for having ignored earlier warnings of public health experts about the need to curtail tobacco, asbestos, vinyl chloride, DES, or to take steps to prevent HIV/AIDS transmission. The costs for treating the ravaging diseases caused by these avoidable environmental health threats have skyrocketed, while the estimated costs of strategies to prevent them pale in comparison.

**2. Swedish analysis confirms brain cancer risks from mobile phone radiation**

An important new article by the Swedish group of investigators led by Hardell et al. [1] provides a valuable contribution to the epidemiological literature that makes the case for creating preventive policies now to reduce harmful risks associated with mobile (cellular) and cordless phones, and other forms of wireless radiation. On May 21, 2011, a committee of 30 invited scientists from 15 different countries working on behalf of the International Agency for Research on Cancer (IARC) of the World Health Organization reviewed key studies on the topic and characterized exposure to radiofrequency radiation associated with mobile phone use as Group 2B carcinogen—i.e. possibly carcinogenic to humans [2]. This is the same category as the pesticide DDT, gasoline engine exhaust, burning coal and dry cleaning chemicals, and jet fuel—compounds that are subject to serious regulation and control around the world today.

By reviewing key epidemiological studies, some of which have been published since the IARC review, addressing methodological critiques of their own and other studies, and reporting the results of a meta-analysis of their own and the IARC coordinated Interphone study, Hardell et al. provide new and compelling evidence for IARC to re-evaluate its classification of “a possible carcinogen”, with a view to

changing that assessment of electromagnetic radiation from mobile phones, cordless phones, and other wireless devices at least to a “probable human carcinogen,” i.e. Group 2A.

This important review concentrates on the data relating to long-term use of mobile and cordless phones from the handful of case-control studies that have been conducted on the association of mobile phone use with brain tumors, addresses arguments that have questioned the validity of past studies, extended the period of follow-up from first exposures, explains the limited nature of time-trend analyses of rare events such as brain cancer, and provides a cogent analysis of the need for precautionary steps to be taken at this time.

In their article, the Hardell group makes the controversies in this field of enquiry accessible. Being a broad-based state-of-the-art and state-of-knowledge review, their article could serve as an excellent teaching tool in epidemiology graduate programmes. The thoroughness of their documented responses to critiques, includes re-analysis of their own and other data sets and makes possible the rejection of alleged of bias in their own studies’ selection/exclusion criteria. Further, the methodological comparisons across the various studies over time, and the observation that, as the exposure period increases, so too do the risk estimates, are compelling for public health action. Finally, the way that the Group was able to integrate exposures both to cordless and mobile phone or cellphone use constructively advances this field of investigation.

**3. Age-adjusted population trends and cohort studies of brain cancer are of limited power**

As a general matter, population trends are of limited immediate value in evaluating a rare disease like brain cancer that is known to have a long latency. The survivors of the atomic bombs that fell at the end of World War II did not exhibit any increased rate of malignant cancer of the brain until four decades later. This established a long latency between exposure and the development of brain cancer and has important implications regarding the evaluation of environmental factors. As an editorial commentary on the release of the Interphone study noted “None of today’s established carcinogens, including tobacco, could have been firmly identified as increasing risk in the first ten years or so since first exposure” [3].

Regarding cohort studies of rare events, as many have noted, the only study to approximate a cohort design of brain cancer risk over time in a population—the Danish Cohort Study—does not comport with required methods to do so [4]. In the Danish study, less than half a million registered mobile phone users were followed and the authors concluded that there is no increased risk. In this study, no direct information on cellphone use was available. Further, the rapidly changing nature of exposure to microwave radiation from cellphones, cordless phones and other similar sources of exposure was not



considered. In addition, corporate users, people who would have been the heaviest users, were included in the unexposed group. Corporate users, amounted to almost a quarter of a million people in the 1990s and are known to have used these technologies four times more often than those in this study. Finally, updates to this cohort also lost significant numbers of the original group to follow-up [5,6]. As a result, it is impossible to take the reported study results of no increased risk at face value, especially considering that a cellphone “user,” as defined by the Interphone study, was anyone who made one call a week for 6 months.

#### 4. Case-control studies are powerful for studying mobile phone radiation

In general, epidemiologists appreciate that, for the study of rare diseases, such as brain cancer, the case-control design is far more powerful than a cohort study. In fact, all of the few well-designed case-control studies of this issue have found significantly increased risk after a decade of use, with higher risks occurring in those with highest use. Thus, within Interphone Appendix II, those who used phones for  $\geq 640$  h or more had close to a doubled risk of glioma.

As a number of commentators and several of the principal investigators of the Interphone studies have noted, the Interphone study results are limited in many ways [7,8]. The Interphone study did not include information on exposure to cordless phones or other wireless devices, did not include patients who began using these technologies before age 20, and included no cases that occurred after 2005 [9,10].

As a result, the Interphone results likely underestimate current risks from mobile phones, and cannot be relied on to shed light on the risks for those who began using phones as children or teenagers. Adults and children now use cellphones for many hours a day compared to only 2–2.5 h a month at the time the Interphone study was conducted.

Further, any study that categorizes people who used cordless or portable phones (which emit the same microwave radiation as cellphones) as ‘unexposed,’ increases the chances of finding no effect when a real one may well be present. This is because the study is comparing people who were actually ‘exposed’ with others who are considered to have been unexposed, but were, in fact, also ‘exposed’ to radiofrequency fields. Because the Nordic countries were early users of mobile phones, it was possible for the Hardell group to conduct case-control studies on those who began using cellphones and cordless phones before age 20. So far, they are the only group in the world that has investigated an increased risk from long term usage that began in those under age 20. Consistent with the increased sensitivity of the young to toxic agents, the highest risk of tumors occurred for those who began using wireless phones as teenagers, or earlier, with glioma risk increased fourfold (OR 4.3, 95% CI 1.2–5.5),

and acoustic neuroma risk increased almost sevenfold (OR 6.8, 95% CI 1.4–34) for ipsilateral use.

An especially important result of the latest Hardell analysis is the finding that patient survival is reduced where mobile phone use began at younger ages. “When adjustment was made for age, the cases with glioblastoma who had used wireless phones had an elevated risk of shortened survival compared to unexposed cases in our study.” In addition, “a poorer survival among children with acute lymphoblastic leukemia exposed to ELF-EMF has been reported. . .” [1].

Other findings are consistent with an increased risk for cancers of the blood or bone marrow tied with mobile phone use. One study in Thailand found a threefold risk of leukemia from GSM cell phone use (OR 3.0, 95% CI: 1.4–6.8) and more than a fourfold risk for any lymphoid leukemia (OR 4.5, 95% CI: 1.3–15) [11]. Cooke et al. (2010) also reported increased Acute Lymphocytic Leukemia (ALL) and Acute Myelogenous Leukemia (AML) risk with  $\geq 15$  years since first use of mobile phones, respectively OR = 1.41 (CI 0.45–4.37) and OR = 2.08 (CI 0.98–4.39, calculated  $p$ -value = 0.051) [12].

#### 5. Exposure misclassification biases toward the null hypothesis

A Swiss personal monitoring study found that mobile phone use currently accounts for one-third of total exposures to wireless and microwave radiation, with routers and base stations accounting for the rest [13]. Misclassification of exposure is well known to bias toward the null hypothesis, or to a finding of “no effect” when, in fact, an effect may well be present. None of the studies carried out on cell phones thus far, including those of Hardell, has taken into account these important other exposures, many of which have changed quite recently and continue to rapidly expand.

Current standards rest on the assumption that permitted levels of microwave radiation from mobile phones do not induce any measureable change in temperature or biological effect. Several independent avenues of research have shown this assumption to be incorrect.

One important study from Sloan Kettering scientist, David Gultekin, and Lothar Moellaer from Cornell [14], found that currently used cellphones can produce hotspots in living brain tissue. Using Positron Emission Tomography (PET), the Director of the National Institute of Drug Abuse, Nora Volkow, reported that 50 min of use of a mobile phone produces significant change in glucose metabolism in the area of the brain that absorbs the most radiation [15]. Reviewing many other relevant studies on EMF impacts on the brain, Corle et al. (2012), concluded:

“A variety of human, rodent and cell culture experimental studies though inconclusive, do collectively suggest that mammalian brain tissue may be sensitive to cellphone levels of EMF” [16].

## 6. Increased susceptibility in young people

The dielectric properties of tissues indicate how easily material can absorb microwave radiation and determine the tissue's response to an electromagnetic current. The measured properties are the conductivity ( $\sigma$ )—which is directly proportional to the SAR, and the permittivity ( $\epsilon$ ). Empirical data have shown a difference in the dielectric properties of tissues as a function of age. These differences are mostly due to the higher water content in children's tissues, but they also reflect the physiological development of an organism or tissue that involves structural and biochemical changes. The results of studies on age effects showed that, while the dielectric properties of gray matter do not change with age, other tissues such as white matter and spinal cord vary significantly. More significant results were observed in the case of bone, skull and marrow tissues [17–20].

High resolution computerized models based on real human imaging data suggest that the higher conductivity and higher permittivity in children's brain tissues, together with their thinner skulls and smaller heads, will lead to higher SARs in their brains from microwave frequencies when compared to adults. Exposure to other body organs from cellphones carried in the pockets is common. Effects on other body organs are studied as well as in utero effects on the fetus [21–29].

These and many other studies provide important evidence that biological effects from mobile phone radiation occur with contemporary phones and thus strengthen the case for expecting these devices to have impacts on health.

A letter to the U.S. Congress by the American Academy of Pediatrics, dated 12 December 2012 notes:

*“Children are disproportionately affected by environmental exposures, including cell phone radiation. The differences in bone density and the amount of fluid in a child's brain compared to an adult's brain could allow children to absorb greater quantities of RF energy deeper into their brains than adults. It is essential that any new standards for cell phones or other wireless devices be based on protecting the youngest and most vulnerable populations to ensure they are safeguarded through their lifetimes.”*

## 7. Shortage in oncology services

Projected supply for oncology services in the U.S. is not expected to meet demand in the near future and is already inadequate. In 2007 a study for the American Society of Clinical Oncology (ASCO, 2007) [projected that “supply is projected to only increase 20% between now and 2020, and capacity for oncologist visits is projected to rise even less at 14%. Demand for oncologist services is projected to grow by 48% during that same time” [30]. The projections were based on current cancer rates and delivery patterns applied to the expected U.S. population in 2020. Unless there is a dramatic

change in cancer care treatment or delivery between now and 2020, the nation is expected to face an acute shortage of oncologists.” Thus, the number of available oncologists is about half those projected to be needed by 2020.

If the elevated risks found in studies of young cellphone users were to occur globally, then rates of glioma could rise significantly from about 3 to 12 per 100,000. In addition to the direct medical costs involved, there will be substantial indirect costs for society, including loss of productivity of those at the peak of their professional lives and incalculable family impacts. This could create a devastating impact on the capacity to deliver neuro-oncology services.

## 8. Policy implications and research priorities

A new question that these findings raise is profound: could mobile phone radiation not only cause brain cancers, but could its continued use shorten the lives of those who develop these and other diseases? This prospect raised by the analysis of Hardell et al. (2013) should be sufficiently concerning to prompt health authorities around the world to issue advice, especially to their incident cancer patients, to reduce exposures from mobile and cordless phones, while further work continues to explore this matter.

Other important research questions that should be addressed include the following: Could exposures to mobile phone radiation play a role in the unusual rise in autism? Does the increase in deep vein thrombosis as the leading cause of death in pregnancy have any connection with the growing use of mobile phones during pregnancy? Could blood clots such as that developed by Secretary of State Hillary Clinton after a fall be more frequent in those who are also heavy cellphone users? Are tinnitus and other hearing problems associated with longer-term mobile phone use?

About half of the world's mobile phone users are under age 30 today and live in developing countries. If the risks reported by Hardell et al. were to occur in that population, the capacity to provide health care would be overwhelmed. This year, the Central Brain Tumor Registry of the United States (CBTRUS) estimates that in the U.S. about 10,000 people will develop glioma. CBTRUS reports that gliomas constitute 1 of every 3 brain tumors and 4 out of every 5 malignant brain tumors. If current young users of mobile phones face such heavy risks, then several thousand new cases will develop in the U.S. annually. Oncology surgeons, neuro-oncologists, drugs and nurses are already in short supply in many regions of both the developed and developing world. Prognosis for the disease has not changed appreciably, with five-year survival rates being about 5% (CBTRUS, 2012) [31].

Current standards for exposure to radiofrequency fields were set more than fifteen years ago resting on the belief that levels of microwave radiation from mobile phones cannot induce any measureable change in temperature or other biological effect. Recent analyses show that this assumption is no longer tenable. The General Accountability Office (GAO)

recently advised the U.S. Congress that standards for mobile phones should be reassessed (GAO, 2012), noting that no new proposals had been advanced in the past two decades, a period during which both the users and their uses have changed dramatically.

In considering the overall findings on increased risk of brain cancer and mobile phone and other wireless radiation in its 2011 evaluation, IARC Director, Christopher Wild, offered some simple recommendations that have since been widely shared:

“Given the potential consequences for public health of this classification and findings it is important that additional research be conducted into the long-term, heavy use of mobile phones. Pending the availability of such information, it is important to take pragmatic measures to reduce exposure, such as hands-free devices or texting.” [32].

## 9. Liability, simple precautions, and product warnings

Over the past decade, this advice about reducing exposures through simple precautions has been echoed by a growing number of health professionals and regulatory bodies around the world, including the Finnish Radiation and Nuclear Safety Authority, the Health Safety Authority of Britain, the Israeli Health Ministry, the Indian government’s Department of Telecom, the Austrian Medical Society, the American Academy of Pediatrics, Environmental Health Trust, Environmental Working Groups, and many others.

With 5.9 billion reported users worldwide, mobile phones constitute a new, ubiquitous and rapidly growing environmental exposure. In 2011, following publication of the Interphone study results, two of the Interphone study researchers including lead author Cardis published an editorial on the potential public health implications of possible brain tumor risk in mobile phone studies [33]. The authors expressed their concern that small increases in risk, especially those found in ipsilateral localized exposure and in long term users are important when considering the huge numbers of people exposed:

“... The findings in several studies of an increased risk for glioma among the highest users on the side of the head where the phone was used and, in Interphone, in the temporal lobe are therefore important. These are the findings that would be expected if there was a risk, as these are the a priori relevant exposure variables.”

“Even a small risk at the individual level could eventually result in a considerable number of tumours and become an important public health issue. Simple and low-cost measures, such as the use of text messages, hands-free kits, and/or the loud-speaker mode of the phone could substantially reduce exposure to the brain from mobile phones.”

Saracci and Samet’s commentary (2010), while less unequivocal, supports this view [3]. Since the risk of greatest interest is lifelong use, possibly beginning in childhood—a pattern of exposure that cannot yet be studied, the authors agree that a precautionary approach to the extent and manner of use of mobile phones may find some support in the elevated risks noted in subjects with the highest exposures.

There are a number of experts who contend that the lack of an overall positive trend in gliomas provides evidence that mobile phone use does not cause brain tumors [34–36]. In addition, some assert that there is no exposure-response relationship, either in terms of the amount of mobile phone use or by localization of the brain tumor, and that this argues against a causal association [37]. But, reviews conducted by groups of researchers from different countries, as well as published policy resolutions and advisories from national authorities such as the Finnish Radiation and Nuclear Safety Authority and the Austrian Medical Society, reach much different conclusions and fully support the need for a precautionary approach regarding risk.

The grounds for taking precautionary steps rest on a growing body of evidence.

Abdus-salam et al., 2008: “the need for caution is emphasized as it may take up to four decades for carcinogenesis to become fully apparent” [38].

Myung et al., 2009: “The current study found that there is possible evidence linking mobile phone use to an increased risk of tumors from a meta-analysis of low-biased case-control studies” [39].

Levis et al., 2011: “Our analysis of the literature studies and of the results from meta-analyses of the significant data alone shows an almost doubling of the risk of head tumors induced by long-term mobile phone use or latency” [40].

Committee on the Environment, Agriculture and Local and Regional Affairs of the Council of Europe (2011): “[For mobile phones] One must respect the precautionary principle and revise the current threshold values; waiting for high levels of scientific and clinical proof can lead to very high health and economic costs, as was the case in the past with asbestos, leaded petrol and tobacco” [41].

The Russian National Committee On Nonionizing Radiation Protection (RNCNIRP) “Urgent measures must be taken because of the inability of children to recognize the harm from the mobile phone use and that a mobile phone itself can be considered as an uncontrolled source of harmful exposure” [42].

As a sign of the times, manufacturers and businesses are developing ways to promote reductions in radiation as well. One of the fastest growing mobile apps is called tawkon—which provides an algorithm indicating the potential danger from signal strength to those using phones. Globally, sales of cases and headsets tested and confirmed to reduce radiation have grown, indicating market demand for such devices.

Phone manufacturers are also issuing advice on reducing exposure, as these notices from Apple and Samsung indicate:

*"To reduce exposure to RF energy, use a hands-free option, such as the built-in speakerphone, the supplied headphones, or other similar accessories. Carry iPhone at least 10 mm away from your body to ensure exposure levels remain at or below the as-tested levels. Cases with metal parts may change the RF performance of the device, including its compliance with RF exposure guidelines, in a manner that has not been testified or certified."*

What is missing altogether in the above statement is this previously published advice from Apple that these phones, when carried in the pocket, can exceed the FCC exposure guidelines.

**Warning: "iPhone's SAR measurement may exceed the FCC exposure guidelines for body-worn operation if positioned less than 15 mm (5/8 inch) from the body (e.g. when carrying iPhone in your pocket)."**

Such advice about safer use no longer appears in a printed pamphlet with iPhones, but can be found on the phones by clicking *settings/general/about/legal/RFexposure*.

Other manufacturers also include more safety advice. Samsung is the number one producer of cellphones in the world today. Their new Convoy 2 phone comes with this advice:

*"Your mobile device is not a toy. Do not allow children to play with it because they could hurt themselves and others, damage the device, or make calls that increase your mobile device bill."*

*"Keep the mobile device and all its parts and accessories out of the reach of small children."*

The challenge to public health is how to promote sensible policies now. The focus on brain cancer may be the tip of the iceberg in relation to a host of other serious widespread health, behavioral and social effects from such radiation. Downloadable resources that draw upon advisories developed by experts in many nations are available in several languages at [www.ehtrust.org](http://www.ehtrust.org).

## 10. Practical advice for the public

When it comes to using electronic devices, remember: *Distance is your friend.*

- Don't hold a cellphone directly up to your head. Use a headset or speakerphone when using the device, or a non-metal case that has been independently tested to reduce radiation up to 90%.
- Pregnant women should keep cellphones away from their abdomen and men who wish to become fathers should not keep these phones on while in their pocket.

- Don't allow children to play with or use your cellphone. Older children should use a headset or speakerphone when talking on a cellphone.
- Do not text and drive and only use specially adapted antennas when using mobile phones in cars to avoid absorbing maximum power as the phone moves from one cell system to another. When buying a new car, pay attention that the car has a built-in antenna that reduces your direct exposure.
- Turn off your wireless router at night to minimize exposure to radiation.
- Eat green vegetables and get a good night's sleep in a dark room to enhance natural repair of DNA that may have been damaged by radiation.

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**From:** Board of Supervisors  
**To:** BOS-Supervisors; Evans, Derek  
**Subject:** File 130155: No meters!

**From:** Sarah Cooper [<mailto:sarah@adventurous.com>]  
**Sent:** Friday, May 03, 2013 9:10 AM  
**To:** Board of Supervisors  
**Subject:** No meters!

We most definitely do not want meters in the Ashbury Heights neighborhood of Mount Olympus. And this process of pushing meters without proper exploration is stretching already limited schedules and nerves; it is an unacceptable way to run city government.

Sarah Cooper, homeowner  
245 Upper Terrace  
San Francisco

--  
Sarah Cooper  
Adventurous Sports  
[adventurous.com](http://adventurous.com)  
415.397.7678

**Document is available  
at the Clerk's Office  
Room 244, City Hall**

poker is a brain sport

## Board of Supervisors

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To: BOS-Supervisors  
Subject: CHEA third party comment--ACCJC

From: ajahjah@att.net [mailto:ajahjah@att.net]  
Sent: Saturday, May 04, 2013 3:09 PM  
To: CHEA; recognition@chea.org  
Cc: Lee, Mayor; Board of Supervisors; Carol.Griffiths@ed.gov; cathy.sheffield@ed.gov; Elizabeth Daggett; kay.gilcher@ed.gov  
Subject: CHEA third party comment--ACCJC

TO: CHEA DATE: May 4, 2013

FROM: Alvin Ja

SUBJECT: Recognition Review for Accrediting Commission for Community & Junior Colleges (ACCJC) of WASC—Third Party Comment

ACCJC is in egregious non-compliance with five of the six CHEA Recognition Standards (Sections 12A, 12B, 12C, and 12D of *CHEA's Recognition of Accrediting Organizations Policy and Procedures*) as follows:

**12A. ADVANCES ACADEMIC QUALITY.** Advancing academic quality is at the core of voluntary accreditation. "Academic quality" refers to results associated with teaching, learning, research, and service within the framework of institutional mission. To be recognized, the accrediting organization provides evidence that it has:

**4. standards or policies that focus on educational quality while respecting the institution's responsibility to set priorities and to control how the institution or program is structured and operates, and that incorporate an awareness of how programs function within the broader purposes of the institution; and**

**5. standards or policies designed to foster desired or needed student achievement and that refer to resources only to the extent required for students to emerge from institutions or programs appropriately prepared, or to address health and safety in the delivery of programs.**

ACCJC's threat of closure/show cause report does not take CCSF's academic quality as the core in its decision-making. ACCJC did not evaluate CCSF within the framework of CCSF's institutional mission. ACCJC has even forced the Board of Trustees to change the Mission Statement to reflect and impose ACCJC's own vision.

The core of ACCJC's sanction is based on financial and administrative/governance critiques. ACCJC failed to focus educational quality and egregiously violated the mandate to respect CCSF's responsibility to set priorities and to control how the institution is structured and operates.

**12B. DEMONSTRATES ACCOUNTABILITY.** The accrediting organization demonstrates public accountability in two ways. It has standards that call for institutions to provide consistent information about academic quality and student achievement and thus to foster continuing public awareness, confidence, and investment. Second, the accrediting organization itself demonstrates public involvement in its accreditation activities for the purpose of obtaining perspectives independent of the

**accrediting organization. Representatives of the public may include students, parents, persons from businesses and the professions, elected and appointed officials, and others. To be**

**recognized, the accrediting organization provides evidence that it has implemented:**

**4. policies and procedures that include representatives of the public in decision making and policy setting**

**6. policies or procedures that call for substantive and timely response to legitimate public concerns and complaints**

Aside from the mandatory acceptance of "third party comment" forms, ACCJC has not sought to get input from the community regarding its decisions in spite of the huge negative impact of its actions on the community. It has not acted out on any policies or procedures to hear public concerns/complaints, not to mention respond to such.

I have sent communications (starting in July 2012) to ACCJC to protest the threat of closure/show cause report. ACCJC has never responded to my concerns.

ACCJC has even gone so far as to try to muzzle (I believe successfully) any voices of dissent from duly-elected members of the Board of Trustees by threatening to "ding" CCSF for not speaking with "one voice".

Far from being accountable to, and far from respecting the sentiments and needs of the community and its students, ACCJC has acted as a law unto itself and is imposing its own vision and will on CCSF.

**12C. ENCOURAGES, WHERE APPROPRIATE, SELF-SCRUTINY AND PLANNING FOR CHANGE AND FOR NEEDED IMPROVEMENT.** The accrediting organization encourages, where appropriate, ongoing self-examination and planning for change. Such selfscrutiny and planning entail thoughtful assessment of quality (especially student achievement) in the context of the institution's mission. Encouragement of such selfscrutiny and planning should not be confused with solely a demand for additional resources, but rather should enable institutions and programs to focus on effective ways to achieve their institution and program goals. Such self-scrutiny and planning are means to enhance the usefulness of accreditation to institutions and programs. To be recognized, the accrediting organization provides evidence that it has implemented standards or policies that:

**1. stress self-examination and self-analysis by institutions or programs for**

**planning, where appropriate, for change and for needed improvement, in the context of institutional mission;**

**2. enable institutions and programs to be creative and diverse in determining how to organize themselves structurally, how best to use their resources, and what personnel and other policies and procedures are needed to attain their student achievement goals;**

**3. encourage institutions or programs to innovate or experiment; and**

**4. require the accrediting organization to distinguish clearly between actions necessary for accreditation and actions that are considerations for**



**improvement.**

In addition to having forced the Board of Trustees to adopt a new Mission Statement, ACCJC has forced the Administration to discard the shared governance model of administration (creative /diverse structure) to an authoritarian (efficient) structure.

By failing to take academic quality as the core in its accreditation decisions, ACCJC fails to distinguish clearly between actions necessary for accreditation versus actions that are considerations for improvement.

**ACCJC's handling of CCSF's accreditation shows that it has failed miserably in fulfilling CHEA's requirement that it "demonstrate the quality of their activities and the pertinence and value of their activities to higher education and the public interest."**

**I allege that ACCJC sees projection of its bureaucratic power and authority as being more important than the educational needs of our community and its students. ACCJC's actions are effectively reducing educational opportunity and access to an institution with excellent teachers and programs. ACCJC is a bureaucracy gone wild.**

## Board of Supervisors

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**From:** Janette Barroca [jbb3252@yahoo.com]  
**Sent:** Friday, May 03, 2013 4:58 PM  
**To:** SF Mayor; Chiu, David  
**Cc:** Marco Mandri; Lee, Edwin (Mayor); Board of Supervisors; Chu, Carmen; Supv Christina Olaque; Campos, David; Avalos, John; Supv Eric Mar; Cohen, Malia; Farrell, Mark; Stefani, Catherine; Supv Scott Weiner; Kim, Jane; Shirley@newcityamerica.com  
**Subject:** \* PETITION TO SF MAYOR & BOARD OF SUPVS. . . .  
**Attachments:** BWY PETITION.pdf

**RE BROADWAY CBD PETITION**

**FROM JANETTE BIAGINI-BARROCA**

Representing Wm Del Monte ~~ Barbara Del Monte ~~ Fred Biagini  
Broadway Parcel #0144 015

Owners of 470

See attachment

**PETITION TO THE SAN FRANCISCO BOARD OF SUPERVISORS  
TO ESTABLISH THE  
TOP OF BROADWAY COMMUNITY BENEFIT DISTRICT**

1. We are the owner(s) of property, or are authorized to represent the owners(s), within the proposed special assessment district to be named the "**TOP OF BROADWAY COMMUNITY BENEFIT DISTRICT**" (hereafter "Top of Broadway CBD" or "District"), the boundaries of which are shown on the attached map and in the Management District Plan for the Top of Broadway CBD (hereafter "Plan").
2. We are or represent the persons and/or entities that would be obligated to pay the special assessments for the services, activities, and improvements as described in the Plan. If the proposed District is renewed and expanded by the Board of Supervisors following the ballot election and public hearing, assessments would be collected for the first 8 years (July 1, 2013 – June 30, 2021). Expenditure of those collected assessments can continue for up to 6 months after the end of the assessment collection period (December 31, 2021), at which point the District would then be terminated, if not renewed.
3. We petition the Board of Supervisors to initiate special assessment proceedings in accordance with applicable state and local laws (California Streets and Highways Code Sections 36600 *et seq.* "Property and Business Improvement District Law of 1994" as augmented by City and County of San Francisco Business and Tax Regulation Code Article 15 "Business Improvement District Procedure Code").
4. We understand that upon receipt of this petition signed by property owners who will pay more than thirty percent (30%) of the proposed assessments, the Board of Supervisors may initiate proceedings to establish the District. These proceedings will include a balloting of property owners under which a majority of weighted property owners who return a ballot may authorize the Board of Supervisors to establish the District.

Assessor Parcel Number (APN): 0144 015

Street Address: 470 Broadway

Proposed Annual Assessment: \$1,401.92

Percent of Total Assessment: 1.33%

Legal Owner Contact Information: DEL MONTES - BIAGINIS

Yes, I petition the Board of Supervisors to initiate special assessment proceedings.

No, I do not petition the Board of Supervisors to initiate special assessment proceedings.

*Janette Biagini-Barroca* for *May 2<sup>nd</sup> 2013*  
\_\_\_\_\_  
Signature of Owner or Authorized Representative Date

*Wm del Monte Barbara del Monte & Fred Biagini*  
\_\_\_\_\_  
owners

*Janette Biagini-Barroca* \_\_\_\_\_  
Print Name of Owner or Authorized Representative Contact Phone or Email

**PLEASE RETURN BY FRIDAY, MAY 3, 2013**

Top of Broadway CBD c/o New City America, Inc. 710 West Ivy Street, San Diego, CA 92101 or  
Scan and email to: Shirley@newcityamerica.com  
619-233-5009, 888-356-2726 FAX 619-239-7105

## Board of Supervisors

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To: BOS-Supervisors; Miller, Alisa  
Subject: Continue Supervisor Wiener's Proposed CEQA Legislation, BoS File No. 121019

-----Original Message-----

From: Judith Berkowitz [mailto:sfjberk@mac.com]

Sent: Sunday, May 05, 2013 7:47 PM

To: Chiu, David; Kim, Jane; Board of Supervisors

Subject: Continue Supervisor Wiener's Proposed CEQA Legislation, BoS File No. 121019

Supervisors,

Please continue Supervisor Wiener's proposed local CEQA legislation until May 20 in order that both his and Supervisor Kim's proposal may be heard in the same hearing.

Please do not send the Wiener legislation to the Board at this time.

Thank you,

- Judith Berkowitz, President  
Coalition for SF Neighborhoods

**Board of Supervisors**

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**To:** BOS-Supervisors; Miller, Alisa  
**Subject:** CEQA Legislation revisions

**From:** Kathy Howard [<mailto:kathyhoward@earthlink.net>]  
**Sent:** Saturday, May 04, 2013 10:10 PM  
**To:** [kathyhoward@earthlink.net](mailto:kathyhoward@earthlink.net)  
**Subject:** CEQA Legislation revisions

Dear Supervisors,

I support the revisions to the local CEQA legislation proposed by Supervisor Kim. We need a careful process that protects our City from ill-considered development. Supervisor Kim's legislation does that.

The CEQA process provides information that can improve a project. Poor projects often have to be torn down at great expense.

The unlamented Embarcadero Freeway is an example of a project that might have been stopped if CEQA had been in place. The freeway was pushed through in the name of "progress" and over the objections of residents. Nature -- in the form of an earthquake -- took care of this eyesore, that had ruined the beauty of the waterfront. I think we can all agree that no one misses it. Our waterfront is thriving with the renovated Ferry Building, the Farmer's Market and the thousands of people who walk and jog along the newly opened up waterfront.

A strong CEQA process makes sense financially as well as from the point of view of quality of life for all of the City's residents.

Thank you for your consideration.

Katherine Howard  
District 4

## Board of Supervisors

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**From:** patnlisa@sbcglobal.net  
**Sent:** Friday, May 03, 2013 6:35 PM  
**To:** Taylor, Adam; Campos, David; Rauschuber, Catherine; Chiu, David; Gillett, Gillian; Hsieh, Frances; True, Judson; Lim, Victor; Wiener, Scott; Volberding, Alexander; Bruss, Andrea; Veneracion, April; Avalos, John; Blackstone, Cammy; Stefani, Catherine; Board of Supervisors; Cohen, Malia; ERIC MAR 1; Farrell, Mark; Ronen, Hillary; John Avalos; Tang, Katy; Kim, Jane; Les Hilger 1; Breed, London; Cohen, Malia; Mar, Eric (BOS); Kelly, Margaux; Mormino, Matthias; Hamilton, Megan; Pagoulatos, Nickolas; Yee, Norman (BOS); Redondiez, Raquel; Scanlon, Olivia; Chung Hagen, Sheila; Angulo, Sunny  
**Subject:** Fw: What Is HR 1523?: Respect State Marijuana Laws Act Introduced In Congress

IN CASE YOU HADN'T HEARD OF IT YET.

--- On **Fri, 5/3/13**, **Pat Monk** <[patnlisa@sbcglobal.net](mailto:patnlisa@sbcglobal.net)> wrote:

From: Pat Monk <[patnlisa@sbcglobal.net](mailto:patnlisa@sbcglobal.net)>  
Subject: What Is HR 1523?: Respect State Marijuana Laws Act Introduced In Congress  
To: "Patrick Monk RN" <[patnlisa@sbcglobal.net](mailto:patnlisa@sbcglobal.net)>  
Date: Friday, May 3, 2013, 6:33 PM .

<http://www.ibtimes.com/what-hr-1523-respect-state-marijuana-laws-act-introduced-congress-1190325>

## Board of Supervisors

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**From:** patnlisa@sbcglobal.net  
**Sent:** Friday, May 03, 2013 5:54 PM  
**To:** Taylor, Adam; Campos, David; Rauschuber, Catherine; Chiu, David; Gillett, Gillian; Hsieh, Frances; True, Judson; Lim, Victor; Wiener, Scott; Volberding, Alexander; Bruss, Andrea; Veneracion, April; Avalos, John; Blackstone, Cammy; Stefani, Catherine; Board of Supervisors; Cohen, Malia; ERIC MAR 1; Farrell, Mark; Ronen, Hillary; John Avalos; Tang, Katy; Kim, Jane; Les Hilger 1; Breed, London; Cohen, Malia; Mar, Eric (BOS); Kelly, Margaux; Mormino, Matthias; Hamilton, Megan; Pagoulatos, Nickolas; Yee, Norman (BOS); Redondiez, Raquel; Scanlon, Olivia; Chung Hagen, Sheila; Angulo, Sunny  
**Subject:** FEDS BUSTING SF DISPENSARIES.It's Happening Again - SF Collectives Under DEA's Watch

First they came for San Diego but.....  
Then they came for San Jose but.....  
Now they're coming for San Francisco...  
WHAT ARE YOU GOING TO DO

--- On Fri, 5/3/13, Pat Monk <[patnlisa@sbcglobal.net](mailto:patnlisa@sbcglobal.net)> wrote:

From: Pat Monk <[patnlisa@sbcglobal.net](mailto:patnlisa@sbcglobal.net)>  
Subject: XXXX.It's Happening Again - SF Collectives Under DEA's Watch  
To: "Patrick Monk RN" <[patnlisa@sbcglobal.net](mailto:patnlisa@sbcglobal.net)>  
Date: Friday, May 3, 2013, 10:18 AM

<http://www.420cali.com/its-happening-again-sf-collectives-under-deas-watch/>

Additional Request  
Details: \*

**The resident states: I would like to see public Wi Fi installed for the City. San Jose has it. San Francisco should move into the future with this type of technology. I think it is important for tourism.**

**BACK**

**OFFICE USE \*\*\*\*\***

**Source**

**Agency**

**Request**

**Number:**

**Responsible**

**Agency**

**Request**

**Number:**

**Service**

**Request**

**Work**

**Status:**

**Work**

**Status**

**Updated:**

**Media URL:**

Submit Cancel



Date/ Time: 2013-05-03 13:30:54.973

Service Request  
Number: 2321324**Request for City  
Services****CUSTOMER CONTACT  
INFORMATION:**

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_

**DEPARTMENTS:**

Department: \* **Board of Supervisors (BOS)**  
Sub-Division:\* **Clerk of the Board**

**PROPERTY ADDRESS:**

**Point of Interest:** \_\_\_\_\_  
**Street Number:** **INTERSECTION**  
**Street Name:** **9TH AVE**  
**Street Name 2:** **JUDAH ST**  
**City:** \_\_\_\_\_  
**ZIP Code:** \_\_\_\_\_  
**X coordinate:** **5993342.0**  
**Y coordinate:** **2105957.5**  
**Latitude:** \_\_\_\_\_  
**Longitude:** \_\_\_\_\_  
**CNN:** \_\_\_\_\_  
**Unverified Address:**

**ADDITIONAL LOCATION INFORMATION:**

Location Description: **The inner sunset**  
(e.g. 600-block of Market St. or in front of Main Library entrance)

**REQUEST DETAILS:**

Nature of Request: \* **Request for Service**

**ADDITIONAL REQUEST DETAILS:**

## Board of Supervisors

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**To:** BOS-Supervisors; Evans, Derek  
**Subject:** File 120987: Why I signed -- This is a good

**From:** Laine Buckingham [mailto:mail@change.org]  
**Sent:** Monday, May 06, 2013 10:24 AM  
**To:** Board of Supervisors  
**Subject:** Why I signed -- This is a good

Dear San Francisco Board of Supervisors,

I just signed Dylan MacNiven's petition "[Yes to Woodhouse on Marina Green!](#)" on Change.org.

Here's why I signed:

This is a good thing for the Marina and a good thing for SF. And a good company to have there.

Sincerely,  
Laine Buckingham  
sausalito, California

---

There are now 609 signatures on this petition. Read reasons why people are signing, and respond to Dylan MacNiven by clicking here:  
<http://www.change.org/petitions/yes-to-woodhouse-on-marina-green?response=9272c59f571d>

## Board of Supervisors

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**To:** BOS-Supervisors  
**Subject:** I just signed "Make fiber broadband a priority for San Francisco"

**From:** Dana S [mailto:mail@change.org]  
**Sent:** Sunday, May 05, 2013 12:20 PM  
**To:** Board of Supervisors  
**Subject:** I just signed "Make fiber broadband a priority for San Francisco"

Dear San Francisco Board of Supervisors,

I just signed Dana S's petition "[Make fiber broadband a priority for San Francisco](#)" on Change.org.

As other cities embrace high-speed fiber broadband, San Francisco is getting left behind. Our city has underutilized public fiber and several local Internet Service Providers eager to deploy gigabit speed broadband to businesses and households, yet this is stymied by rules and regulations that have not kept pace with technology. Deployment of fiber and ultra-high speed broadband provides a unique opportunity to create innovation and new jobs, extend public access and develop valuable infrastructure that would serve our city for decades to come. I encourage you to develop policy to encourage fiber deployment and make ultra fast broadband a priority for San Francisco.

Sincerely,  
Dana S San Francisco, California

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There are now 1 signatures on this petition. Read reasons why people are signing, and respond to Dana S by clicking here:  
<http://www.change.org/petitions/make-fiber-broadband-a-priority-for-san-francisco?response=9272c59f571d>