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**Contracting Working Group  
of the  
Public Utilities Revenue Bond Oversight Committee**

**MINUTES**

Friday, July 9, 2010  
9:30 a.m. - 11:30 a.m.  
1155 Market Street (between 7<sup>th</sup> & 8<sup>th</sup> Streets)  
11<sup>th</sup> Floor Conference Room B

Contracting Working Group Members  
Kyle Rhorer, Chair  
Brian Browne  
David Sutter

**1. Call to Order and Roll Call**

Chair Rhorer called the meeting to order at 9:35 a.m. and roll call was taken.

Present: Kyle Rhorer, Brian Browne, and David Sutter.  
Absent: None.

There was a quorum.

Member Brian Browne's written comments incorporated by reference herein on Pages 4 and 5.

**2. Public Comment: Members of the public may address the RBOC Contracting Working Group on matters that are within the RBOC's jurisdiction and are not on today's agenda.**

Public Comment: Speaker: None.

**3. Update, Discussion and Possible Action related to the engagement of academic institutions to provide analysis of the Water System Improvement Projects (WSIP) and/or the Revenue Bond Oversight Committee (RBOC).**

The RBOC Contracting Working Group discussed the possibility of engaging academic institutions to provide analysis which included questions concerning possible scopes of work and how to engage academic institutions.

46 Member Browne volunteered to contact academic institution to invite them  
47 to a future RBOC Contracting Working Group meeting to discuss how the  
48 institution can assist with their expertise.

49

50 Other Speakers: Mike Brown, SFPUC.

51 Public Comment: Speaker: Kevin Cheung, Appointee to the RBOC.

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53 Member Brian Browne's written comments incorporated by reference  
54 herein on Pages 4 and 5.

55

56 **4. Update, Discussion and Possible Action to engage a firm from the**  
57 **approved City Controller's pool to provide specific analytical**  
58 **services such of the development of key performance indicators.**

59

60 Items Nos. 4 and 5 discussed concurrently.

61

62 The RBOC Contracting Working Group discussed the possible  
63 engagement of a firm from the Controller's approved pool of firms, work  
64 scope and key performance indicators to be included in the Request for  
65 Proposal.

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67 The RBOC requested that SFPUC research other possible Controller's  
68 pre-approved firms that focus on construction management.

69

70 Other Speakers: Mike Brown, SFPUC.

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72 Public Comment: Speaker: Kevin Cheung, Appointee to the RBOC.

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74 Member Brian Browne's written comments incorporated by reference  
75 herein on Pages 4 and 5.

76

77 **5. Update, Discussion and Possible Action to develop a Request for**  
78 **Proposals (RFP) document to solicit analytical/oversight services in**  
79 **the construction management/administration field.**

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81 Items Nos. 4 and 5 discussed concurrently. Please see Item No. 4 for  
82 details.

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90 **6. Discussion and Possible Action related to the approval of draft**  
91 **minutes for the April 30, 2010, meeting of the RBOC Contracting**  
92 **Working Group.**

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94 Member Browne moved, seconded by Member Sutter, to approve the  
95 minutes of the RBOC Contracting Working Group's for April 30, 2010.

96  
97 Ayes: Chair Rhorer and Members Browne and Sutter.  
98 Noes: None.

99  
100 **7. Adjournment.**

101  
102 The RBOC Contracting Working discussed possible future hearing dates  
103 and subjects for upcoming meetings.

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105 Chair Rhorer adjourned the meeting at 10:40 p.m.

106  
107 The meeting minutes of the Revenue Bond Oversight Contracting Working  
108 Group for July 9, 2010, were approved on August 6, 2010.

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111 July 9, 2010 CWG-RBOC

112 To be discussed and read into the record of the Revenue Bond Oversight Committee  
113 Meeting of 7.09.10

114 By

115 Member Brian Browne  
116

117 Pre qualified list of consultants: P. Page 1 of the Controller's document "Pre-qualified  
118 Consultants List Guidelines;" states,

119 "Appropriate use of our lists saves the department's time and effort of having to do their  
120 own formal competitive solicitation process by allowing them to use ours."

121 This is exactly what was not intended by the framers of 2002 Proposition P, the enabling  
122 legislation creating the Revenue Bond Oversight Committee (RBOC). We are exhorted  
123 by Proposition P, as members of the RBOC, to be fiercely independent in acting on  
124 behalf of our constituents (ratepayers/citizens).

125 The RBOC has failed in its last three contracts to show real independence. It may take  
126 some effort, but now is the time to independently, in sunshine, develop our own list of  
127 consultants and our own consulting guidelines. Independence as on July 4, 1776. No  
128 more reporting to Westminster/Crown.

129 Item 3 – Using academic institutions is clearly a way to get independence and also  
130 acquire a highly proficient stock of human and non-human capital. Two universities –  
131 UCB and UCLA have expressed "intent to participate." We should expand this academic  
132 list and ensure these schools will be able to compete on a level playing field through a  
133 competitive, transparent, and non-discretionary RBOC process that is consistent with the  
134 mandates of 2002 Proposition P.

135 Item 4 – Discussed above (Controller’s pre-approved list). These consultants could be  
136 part of a RBOC approved list after a rigorous review of each potential by the RBOC.  
137 Being on the Controller’s list is neither sufficient nor necessary.

138 Item 5 – I oppose any and all efforts to have no bid contracts. This includes any and all  
139 subsets regardless of how ingeniously these may be constructed and presented (M&M  
140 syndrome). The RBOC must be accountable to the ratepayers as must the RBOC hold all  
141 consultants accountable.

142 Based on RBOC discussions approval of this item could possibly lead us into the contract  
143 management business and the hiring of one consultant to act on changes to a highly  
144 subjective and untested list of “key indicators.” This could open the way for purchase  
145 orders (a no bid contract by any other name) and other type arrangements which could be  
146 sustained by majority overrides of the non-bid-no contract requirement.  
147  
148

149 Page 11 of the most recent consultant report (December 2009) at Figure 1, entitled  
150 “Proposed WSIP Project Key Performance Indicators” is a good example of assumed  
151 qualitative relationships under the column headings “Performance Indicators” and “What  
152 it measures.” These relationships are presented as best I can tell without any formal and  
153 verifying process, along the lines suggested below. This is qualitative not quantitative  
154 analysis. Its correlative relationship (applicability) to 2002 Proposition P is unclear. It  
155 value to the ratepayer is even more obscure in its current form.

156 Major benchmarks that must be achieved before reliance on any set of indicators must  
157 include; but not be limited to:

- 158 Phase 1 – Preliminary analysis
- 159 Phase 2 – Testing – statistical and mathematical criteria
- 160 Phase 3 Validation of “indicators”
- 161 Phase 4 Applications as they pertain to 2002 Proposition P mandates

162 These analytical and testing steps have not been completed to the best of my knowledge  
163 as to testing the efficacy of the key indicators.

164 In the “Review of Sunset Reservoir – North Basin Report.” the statement by the  
165 consultants “RBOC – Financial Consulting Team” is presumptive for the many reasons I  
166 have already stated in prior emails and at RBOC meetings. We don’t have and I hope we  
167 don’t try and acquire one ongoing. financial consulting team. This would constitute a no-  
168 bid contract regardless of the M&M coating.

169 I greatly fear there is an effort to hire an onboard consultant and allow expenditures to be  
170 made on an ongoing basis without a review by the entire committee. A former chair,  
171 some years ago, asked me to agree to hire the one consultant we have used in our three  
172 contracts to date as our permanent consultant. I said “No!” then. I still say No! We must  
173 have in place a competitive, open and independent bid process as determined by the  
174 RBOC and consistent with Proposition P. All qualified consultants must be allowed to  
175 participate.

176 We must also address the way power is delegated on our committee. Only the BoS  
177 representatives were elected in degree. The other members were selected. It may be time  
178 to rotate the administrative functions of the RBOC on a meeting by meeting basis and/or  
179 institute term limits. Administrative power must be shared among all the representatives  
180 of all these major stakeholders. Administrative power has been too tightly held and for

181 too long. The RBOC is not working, at least as I intended in helping make it a reality in  
182 2002.  
183 A senior SFPUC finance official recently stated our independent reports support SFPUC  
184 applications to the capital markets. This statement reinforces my many requests for  
185 transparency, systematization, and independence.  
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