sfac

San Francisco Arts Commission

Edwin M. Lee
Mayor

Tom DeCaigny
Director of
Cultural Affairs

Programs:
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Public Art
SFAC Galleries
Street Artist Licensing

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City and County of
San Francisco

September 24, 2012

The Honorable Katherine Feinstein
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Feinstein:

The following is in response to the 2011-2012 Civil Grand Jury report, "Where There's Smoke . . . The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy".

I want to thank the Civil Grand Jury for taking the time to look deeply into the Arts Commission and for their advocacy on behalf of appropriate funding for the arts in San Francisco. I'm proud to report that we have already taken significant steps to correct many of the recommendations of the Jury, and we will put this critical information to use as we move forward with our community engagement and planning process, which will begin this fall.

The aforementioned plan deliverables will include a ten-year capital plan to address the long-term needs of the Civic Art Collection and Cultural Centers, as well as a review of all legislation pertaining to the Arts Commission. This process will enhance the Arts Commission's programs and resources to better serve the community and to ensure a more vibrant and healthy arts ecosystem.

Thank you for your time, and please don't hesitate to contact me with any questions.

Sincerely,

Tom DeCaigny
Director of Cultural Affairs

The San Francisco Arts Commission's (SFAC) response to the Civil Grand Jury's findings and recommendations is as follows:

I. SFAC Governance

Finding F1: The City, through SFAC and GFTA, devotes public resources to art and cultural programs in more generous amounts, per capita, than any other municipality in the United States.

Response: Disagree (partially). The SFAC has not reviewed data of the per capita arts budgets of every other municipality in the United States and so is not in a position to agree or disagree with the finding. While San Francisco does devote more funding per capita than many other major U.S. Cities (such as Los Angeles), a comprehensive study of all municipalities has not been undertaken.

Finding F2: SFAC Commissioners have not taken responsibility to adequately ensure administrative excellence in the department they govern.

Response: Disagree (wholly). Arts Commissioners have acknowledged a number of areas for improvement over the past year, and governance at the SFAC continues to improve as a result. Some governance improvements over the past year include: regular quarterly financial reports to the SFAC Executive Committee; a new draft 360 performance review instrument for the Director of Cultural Affairs to be implemented annually (and at six months for the new Director); monthly leadership team meetings between the Commission President, Vice-President and Director of Cultural Affairs; new program as well as accounting policies and procedures manuals for all programs reviewed at the committee and full commission level; and regular annual meetings of the nominating committee to nominate officers and review performance of the Commission as a whole.

Finding F3: Commissioners focus on programs at the expense of general administration and the larger interests of the public.

Response: Disagree (partially). The purpose of the Executive Committee of the Commission, which meets monthly, is to focus on general administration issues and interests of the public not addressed by a specific committee. All meetings of the Commission are properly noticed as is required by law so that members of the public are welcome to express their interests and concerns before the Commission. San Francisco is home to many diverse communities and a diverse arts and culture ecosystem. The SFAC aims to be responsive to the greatest community need, and our upcoming community engagement and planning process will outreach to a broad cross-section of the San Francisco public to properly assess the areas of greatest need.

Finding F4: SFAC has not developed materials that create awareness among the general public of the array of art opportunities available to them.

Response: Disagree (partially). The Arts Commission regularly updates its website and participates actively in social media outlets (Facebook and Twitter - @SFAC), as well as publishes a series of electronic monthly newsletters that highlight specific agency programs as well as agency-wide activities and important deadlines. Members of the public are able to sign up for the newsletter via our website. Furthermore, the Arts Commission maintains a poster series along Market Street that promotes a range of arts activities in the City, and creates an annual report summarizing the diverse work of the Arts Commission. We are always open to new marketing ideas and look forward to piloting new communications strategies as part of our planning process in 2012-13.

Finding F5: SFAC has not created a high-profile community identity for itself as an important contributor to San Francisco's cultural heritage.

Response: Disagree (wholly). All of our programs have received local as well as national attention. For example, the Arts Commission's Public Art program is responsible for creating millions of dollars in new public art annually, and has a national reputation as one of the best public art programs in the country. In June 2012, two recent works from the City's Civic Art Collection were recognized by Americans for the Arts Public Art Network as two of the best 50 public art projects in the country. The Cultural Equity Grants program, the first of its kind in the country, supports hundreds of San Francisco individual artists and small to mid-size arts organizations, and has also been recognized as a leading program in the field. San Francisco's reputation as a vibrant, creative, and artistically interesting City draws millions of visitors each year, and that reputation is supported in large part by the "behind-the-scenes" work of the SFAC.

While the SFAC is cautious not to spend precious taxpayer dollars for purposes of self-promotion, we recently secured the pro bono branding and marketing services of local design firm studio1500. studio1500 redesigned the SFAC's logo and brand platform free of charge, and we launched the new look in a poster series along Market Street in April 2012. The new brand will be the basis for an improved website to be developed in 2013 after the SFAC completes a comprehensive community needs assessment.

Finding F6: SFAC has only made a limited effort at fundraising.

Response: Disagree (wholly). The SFAC has been awarded $4,970,462 in competitive grant dollars from private foundations as well as state and federal public agencies over the past four fiscal years. In 2010, the SFAC also launched ArtCare, a fundraising initiative in partnership with the SF Art Dealer's Association focused on raising private funds for care of the City's Civic Art Collection. In addition, specific programs of the SFAC such as WritersCorps and the SFAC Galleries, solicit funds from donors through annual campaigns

and fundraising events. Moreover, the SFAC has actively sought and fostered partnerships with numerous other city agencies, such as the Public Utilities Commission, to increase revenue streams for its programming.

Finding F7: As a particularly community-oriented government agency, SFAC office practices need substantial improvement.

Response: Disagree (partially). Since the Civil Grand Jury began their investigation, the SFAC has instituted a number of new office policies and procedures. These new policies and procedures include: a new staff point person (Communications Director) for all public information and Sunshine Ordinance requests; regular bi-weekly all staff meetings and management team meetings to improve internal communication. The agency has also improved its processes for public meetings by providing more explanatory documents.

Finding F8: SFAC's website and published materials are out-of-date.

Response: Disagree (partially). We are currently conducting a review of our website and printed materials to ensure all items are up-to-date.

Recommendation R1: To improve the governance of the department, increase the number of at-large Commissioners to eight members, through Charter amendment.

Response: This recommendation cannot be implemented by the SFAC. Whether or not to modify the composition of the Commission under the Charter is a policy decision for the voters.

Recommendation R2: As an alternative, establish a Citizens Advisory Committee of seven members, appointed by the Mayor, to provide expert guidance in governance and administration, aid in non-governmental fundraising, and increase the community stature of the department.

Response: The recommendation will not be implemented by the SFAC. Currently, there are two vacancies on the Commission. We look forward to working with the Mayor's Office to fill both with qualified candidates, and believe that a Commission of 15, experienced in arts policy, governance, administration, and fundraising, will provide adequate oversight and guidance to the agency. We do not believe the creation of an additional governmental body is necessary or productive.

Recommendation R3: Encourage the creation of a non-profit organization dedicated to raising funds to meet program and operational needs.

Response: The recommendation requires further analysis by the Director of Cultural Affairs and the Commission. Creation of a non-profit organization, or "Friends of the San

Francisco Arts Commission" dedicated to fundraising for the agency, cannot legally be undertaken by staff and so there would need to be sufficient interest and resources in the philanthropic community to create and maintain a separate entity. The SFAC will explore this recommendation as part of our community engagement and planning process in October-December 2012.

Recommendation R4: Improve the orientation and training of Commissioners to provide them with a clear understanding of their administrative responsibilities and roles in budgeting, personnel management, city processes, and their role as ambassadors to the public to increase awareness of art opportunities in the community.

Response: The recommendation has been partially implemented and will be completely implemented by January 2013. The Director of Cultural Affairs and Commission President are working with staff to ensure Commissioners receive adequate training in their roles and responsibilities, including a thorough understanding of City processes and procedures, the agency's budget, revenue sources, and related legislation, as well as agency policies and programming. The two new Commissioners have completed orientation meetings with staff and the President and Director of Cultural Affairs have met, or are scheduled to meet, with all other current Commissioners in the coming months. Additionally, a Commission retreat will be held in the next six months that will include additional training on the City budget and other policy-related matters.

Recommendation R5: Furnish the means for each Commissioner to conduct an annual self-assessment to evaluate personal and commission performance in order to promote a focus on the full array of Commission responsibilities.

Response: The SFAC cannot implement this recommendation. All Commissioners are Mayoral appointees, and instruction to complete a self-assessment would come at the Mayor's direction.

Recommendation R6: Update the SFAC website and materials to conform to current law and policy.

Response: The recommendation will be implemented by January 2013. All of the materials on the website are updated regularly, and we are in the process of reviewing any out-of-date information. We look forward to beginning a redesign of the website later this year.

II. SFAC and the Civic Art Collection

Finding F9: The Civic Art Collection is a vast assemblage of tangible art and artifacts, representing a substantial cultural and financial asset of the City and County.

Response: Agree.

Finding F10: Promotion of the Collection as an attraction of the City is limited.

Response: Disagree (wholly). The Arts Commission promotes the Civic Art Collection to the extent we can within the bounds of our limited resources. Examples include, but are not limited to:

- Issuing press releases at the completion of every new artwork and garnering significant press coverage;
- Issuing press releases at the completion of every major art restoration project – recent projects garnering press include the Voulkos sculpture restoration (story made the front page of *The San Francisco Chronicle*), the Haring sculpture restoration (this story made the front page of the *Bay Area Reporter)*, and Coit Tower;
- Listing with images of every commissioned art enrichment project published on our website;
- Garnering national recognition of programs and projects with achievement awards from Americans for the Arts' Public Art Network;
- Completing numerous episodes of Culture Wire (available online and at sfgov tv) about the collection;
- Screening 20-minute Culture Wire episodes about the Civic Art Collection in Terminal 2 at SFO ran for several months as in-flight entertainment on Virgin America Airlines;
- Exhibiting mid-century artworks from the Civic Art Collection (approximately 120 works) were loaned and exhibited at SFO Museums, International Terminal;
- Fielding routine requests for artwork loans from the collection to numerous prestigious institutions, most recently the DeYoung Museum, Whitney Museum of American Art (New York City), SFMOMA, Palm Springs Art Museum;
- Producing a forthcoming book which includes highlights of the Civic Art Collection and its history to be published in Spring 2013;
- Producing a "Guide By Cell" audio tour of the public art collection at SFO's new Terminal 2;
- Launching Smart Phone Apps to publish the collection in progress with multiple media partners.

Finding F11: There is only a partially complete inventory of the Collection.

Response: Disagree (partially). The SFAC has always had a complete accounting of artworks under the SFAC's jurisdiction in the Civic Art Collection. Each object, dating back to 1875, has been assigned a catalogue number (known as an accession number) and each object has both digital and paper records in the archive. Given the widespread nature of the collection, inventories have historically been conducted in segments. This is in line with

collection management best practices. The SFAC now endeavors to undertake a "wall to wall" inventory, dedicating the resources necessary to complete a comprehensive inventory of the collection within 18 months.

Finding F12: No appraisal of the Collection, at its present value, has been undertaken.

Response: Disagree (partially). There is a substantial cost involved in appraising artworks, anywhere from $300 - $1000 per object depending on complexity. Segments of the Civic Art Collection are appraised at regular intervals for insurance purposes. For example, the collection at SFO was recently appraised at the expense of the airport, as they maintain their own insurance policy for the artwork. Data from segments of the collection is used to then estimate rough value for the entire collection. Individual artworks are appraised as necessary - for example when loaned to other institutions, at request of the insurer, and before undertaking major restoration. Also, large-scale, architecturally integrated public artworks and monuments cannot be appraised similar to standard artwork, as there is generally no resale value. These works are assessed for replacement value. The SFAC documents the original purchase price and/or commission budget for every artwork in the collection.

Finding F13: The inventory and cataloging function of the SFAC is delegated to at least a single paid staff member and two interns which is insufficient.

Response: Disagree (wholly). The Civic Art Collections staff consists of one full-time, paid Senior Registrar; one full-time, paid Collections Project Manager; one part-time (.5 FTE), paid Collections Program Associate; and a fluctuating number of interns (usually 1-2). These employees manage the documentation, cataloguing, inventory, maintenance and conservation of the collection, in addition to other collections related tasks. In addition, we are in the process of interviewing for a temporary, paid specialist to focus solely on inventory of the collection over the next 18 months.

Finding F14: Public access to the Collection has diminished due to SFAC's suspension of its art loan program to other City agencies and departments.

Response: Disagree (wholly). No artworks have been or will be recalled from loan as a part of the suspension of the loan program. Therefore, there is no change to the amount of artworks on loan and no diminishment of public access to the collection. The suspension applies to new loan projects, where an agency exchanges what they already have for different work. The suspension has no effect on the volume of work currently on view.

Finding F15: Despite inadequate maintenance funding, commissioning and accessioning of new art continues under the Public Art Program.

Response: Agree. By City law (Section 3.19 of the Administrative Code), two percent of the gross estimated cost of all construction projects on City property is required to be set aside for art enrichment funds, for the creation of new public art.

Finding F16: De-accessioning of art in the Collection is infrequent and underutilized.

Response: Disagree (partially). De-accession from the collection is a necessarily intricate and time consuming undertaking. The Arts Commission has very strict guidelines regarding de-accession, which can only be undertaken under specific circumstances. These guidelines are in keeping with collections management best practices. The Commission averages 3-4 de-accessions annually. As a result of the collection inventory over the next 18 months, we may identify parts of the collection that will be appropriate for de-accession.

Finding F17: The maintenance budget for the Collection is grossly inadequate to the task of preservation of the Collection.

Response: Agree. We believe an on-going source of revenue must be dedicated to the task of preserving the collection, and are currently undergoing an analysis to propose options.

Finding F18: Art maintenance is more appropriately an operating rather than capital cost as it is a day-to-day responsibility of SFAC.

Response: Disagree (partially). We agree that maintenance of the collection is an ongoing responsibility and operating cost that the Arts Commission has not had the resources to implement. However, the collection is a capital asset for the city. Just like other capital assets (such as buildings) require major maintenance and capital improvements, so do objects in the collection.

Finding F19: Art maintenance is inappropriately treated as a capital expense by City government.

Response: Disagree (wholly). As stated above, the City defines the collection as a capital asset.

Finding F20: Without a clear legal mandate to do so, SFAC has assumed responsibility for maintaining art on Recreation and Park Department properties.

Response: Disagree (partially). The Arts Commission has been maintaining work on Recreation and Parks property since its inception in 1932. The legal mandate to do so, as stated in the report, is Charter Section 5.103, which tasks the Arts Commission with maintaining the art owned by the City. Administrative Code 2A.150.1.A&B states:
(a) **Cataloging, Care and Maintenance of Public Art Media.** The cataloging, care and maintenance of all sculptures, statues, murals, paintings and other art media belonging to

the City and County of San Francisco, other than and excepting those located on properties under the jurisdiction and control of the San Francisco Unified School District, the M. H. de Young Memorial Museum, the California Palace of the Legion of Honor, the California Academy of Sciences and the Recreation and Park Commission, shall be under the jurisdiction of the Arts Commission. (b) **Agreement with Recreation and Park Commission.** The Arts Commission shall be authorized to enter into agreement with the Recreation and Park Commission, upon such terms as may be mutually agreed, for the cataloging, care and maintenance of any or all of the above media located on properties under the jurisdiction of the Recreation and Park Commission.

Finding F21: SFAC spends most of its current maintenance funding repairing works on Rec & Park property.

Response: Disagree (partially). SFAC efforts at graffiti abatement largely take place on Recreation and Parks Property. Over the last three years however, larger scale maintenance and restoration projects have been undertaken throughout the City on multiple properties overseen by Recreation and Parks, Municipal Transit Agency, Moscone Center, SFO, SF Police Department, SF Fire Department, and the Department of Public Health.

Recommendation R7: The Collection Loan Program remain suspended until the inventory and appraisal of the Collection is complete, and a tracking system for loaned art is developed and in operation.

Response: The recommendation has already been implemented; as stated, this is the current status of, and our future plan, for the program. The loan program is currently suspended. A tracking system is already in place - a function of the inventory project is to analyze and recommend required resources for the program to function adequately moving forward.

Recommendation R8: Human and material resources adequate to the task be devoted to the rapid completion of the inventory, appraisal, and cataloging of the Collection.

Response: The recommendation will be implemented in the future. Currently, we are interviewing candidates for the position that will be solely focused on conducting an inventory of the collection, which we anticipate will be completed within the next 18 months. Appraisal of the collection continues as warranted under conditions described in Finding #12.

Recommendation R9: Re-designate maintenance and conservation of the Collection as an operating expense of the SFAC rather than a capital budget item.

Response: This recommendation will not be implemented. The SFAC has been advised to continue to interact with the Capital Planning Committee regarding the maintenance needs of the Civic Art Collection and related funding requests.

Recommendation R10: Redirect and dedicate $1 million, over two years, of the Grants for the Arts/Hotel Tax Fund on a one-time basis to the Arts Commission to fund the inventory, maintenance, storage, de-accessioning, exhibition and installation of the *existing* Collection located in the City, at San Francisco International Airport, and at other City properties.

Response: This recommendation cannot be implemented by the SFAC. The reallocation of Hotel Tax fund dollars intended for Grants for the Arts or any other City entity or project is a policy decision for the Mayor's Office and the Board of Supervisors, to be determined during the annual budget process. The SFAC would welcome additional Hotel Tax fund revenue (or revenue from another source) for the management of the collection, but not at the expense of existing funding to the broader arts community.

Recommendation R11: Designate Hotel Tax Funds from the initial $1 million for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors.

Response: This recommendation cannot be implemented by the SFAC. The reallocation of Hotel Tax fund dollars is a policy decision for the Mayor's Office and the Board of Supervisors, to be determined during the annual budget process. The Arts Commission would welcome additional Hotel Tax fund revenue (or revenue from another source) for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors, but not at the expense of existing funding to the broader arts community.

Recommendation R12: Designate Hotel Tax Fund monies of 1% of the value of the Collection (up to $900,000) on an annual basis for the maintenance and care of the Collection.

Response: This recommendation cannot be implemented by the SFAC. The reallocation of Hotel Tax fund dollars is a policy decision for the Mayor's Office and the Board of Supervisors, to be determined during the annual budget process. The SFAC would welcome additional ongoing Hotel Tax fund revenue (or revenue from another source) for the maintenance and care of the collection.

Recommendation R13: Clarify ownership and maintenance responsibilities for art and statuary on Rec & Park property.

Response: This recommendation will be implemented within the year. The SFAC looks forward to working with the Recreation and Parks Department (RPD) to clarify ownership and maintenance responsibilities for art on RPD property via an MOU between the agencies.

Recommendation R14: Complete a SFAC – Rec & Park agreement to ensure compensation for maintenance of art in the City's parks is adequate to support that task and does not impair conservation and maintenance elsewhere.

Response: This recommendation requires further analysis. As stated above, the SFAC will work with the Recreation and Parks department to create an agreement between the two agencies clarifying responsibility for maintenance of art on RPD property. However, allocation of financial resources to the tasks will be a policy decision for the Mayor and Board of Supervisors during the City's annual budget process.

III. Neighborhood Cultural Centers

Finding F22: The cultural centers are a primary responsibility of the Arts Commission under the Charter.

Response: Agree.

Finding F23: SFAC has not given the support and maintenance of the Cultural Centers the priority the Charter requires.

Response: Disagree (partially). Historically, the SFAC has been underfunded for Cultural Center capital needs, resulting in long-term deferred maintenance on the buildings. Every year, the SFAC requests support from the Capital Planning Committee to address major capital and life safety needs of the buildings, such as roof and HVAC system repairs. Beginning in FY11, the SFAC has seen a significant increase in City support, including upgraded HVAC and lighting systems at the African American Art & Culture Complex (AAACC), Mission Cultural Center for Latino Arts (MCCLA), and SOMArts Cultural Center through a funding program of the Public Utilities Commission. In FY12, allocated capital funding to Bayview Opera House (BVOH) included:

- $500,000 to the restoration and repair of the south wall;
- $590,000 to support ADA and barrier removal projects in conjunction with a larger renovation and site redesign from Mayor's Office on Disability;
- $400,000 from Housing (former Redevelopment Agency);
- $100,000 from Mayor's Office of Community Initiatives; and
- $250,000 from the Public Utilities Commission.

Plans for that renovation of BVOH are currently under way with a planned ground breaking in 2013. FY12 to FY14 will see significant increases in support for the Cultural Centers from the Capital Planning Committee including:

- $227,563 to MCCLA for a new roof
- $214,760 to MCCLA for improvements to the ventilation and cooling system
- $100,507 (increase from $78,000) in the maintenance and repair budget for the Centers
- $159,005 for AAACC for an electrical upgrade
- $281,666 for AAACC for a new roof
- $370,822 for SOMArts for a new roof

Furthermore, the Mayor's Office on Disability has committed the following in the FY12 to FY14:

- $75,000 for AAACC for completion of ADA access to the second floor restrooms;
- $960,000 for SOMArts for an ADA barrier removal project including the front entrance at Brannan Street and access to the second floor;
- $800,000 for MCCLA for ADA barrier removal for the first floor, upper floor accessible bathrooms, and a lift to the mezzanine level.

These investments will have a tremendous impact on improving the facilities, and the SFAC strategic planning process will provide a 10-year capital plan.

Finding F24: SFAC has not addressed the long-term funding, stability and safety needs of the Cultural Centers.

Response: Disagree (partially). In order to provide stable, long term funding to the Cultural Centers, the SFAC has met required reductions to the General Fund allocation by reducing spending in SFAC administrative areas and providing consistency to the Cultural Centers grants allocations. In FY11, the SFAC assigned a program manager to provide increased oversight of the Cultural Centers program to assure that all compliance requirements are fully met and to increase the professional development of the Cultural Centers' staff and their board of directors. The safety of the buildings is of utmost concern. The Cultural Center grants allow for funds to be utilized to support security guards, security equipment, or to pay stipends for ambassador safety programs. Maintenance and repair funds may be used to increase surveillance or other technical safety needs, if required by the Centers and if funds are available. The SFAC adapts requirements to allow youth programs to take place outside of the Cultural Centers if there are short-term safety concerns for the participants. The long-term funding issues will be addressed in the upcoming community engagement and planning process.

Recommendation R15: SFAC hold public hearings and develop an action plan about the Cultural Centers and their short and long term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.

Response: This recommendation will not be implemented. All legislated reporting requirements, financial audits, Controller's audits and California Cultural Data Project reports are reviewed at the CAEG committee level and submitted for review to the full Commission on a monthly basis. These meetings are publicly noticed and follow all Sunshine requirements. The CAEG committee also reviews fundraising plans and facility and life safety requirements for each of the Centers. Members of the public are welcome to attend and provide public comment.

The Cultural Centers house independent not-for-profit organizations that are responsible for the day-to-day operations and programs of the building. As required in the legislation, the Centers must hold six community support board meetings. Therefore, the issues raised in this recommendation would be better addressed site by site as each neighborhood and facility has distinct constituents. In addition, it is not appropriate for the City to hold community meetings that may impact an independent not-for-profit. The forthcoming SFAC strategic planning process will include extensive community engagement opportunities and produce a 10-year capital plan that will include the life safety system needs of the facilities.

Recommendation R16: SFAC enter long-term leases with their Cultural Center operators.

Response: This recommendation requires further analysis. The SFAC has taken a conservative leasing practice that correlates the issuing of an annual lease with the issuing of an annual grant allocation. A shift to a long-term lease would potentially also mean a shift to a longer-term grant agreement. SFAC staff meets annually to review the leases with the City Attorney's office to assure the leases are current and reflect accurately the individual needs of the sites. The SFAC has been in conversation with the City Attorney regarding long-term leases and the advisability of entering into a 5 to 9.9 year lease agreement. The SFAC strategic planning process will review this recommendation within the next 6 months.

IV. Street Artists Program

Finding F25: The SFAC routinely assigns new Commissioners to the Street Artists Committee due to lack of interest of other Commissioners.

Response: Agree. The perceived "lack of interest" is due to reluctance on the part of some Commissioners to hear cases of street artist violations and to suspend or revoke certificates (licenses).

Finding F26: The Street Artists Program is a self-funding enterprise that is funded by fees from the Street Artists.

Response: Agree. The law requires the Street Artist fees be used exclusively to cover the costs of managing and administering the program.

Finding F27: The District Attorney has failed to respond to Sunshine Complaint No. 11023.

Response: The SFAC is not in a position to agree or disagree with this finding, because it pertains exclusively to actions taken (or not) by the District Attorney's Office.

Finding F28: The Street Artists annual fees since 2000 have increased in large part due to the costs of defending the Program Manager for violations of the Sunshine ordinances from the Street Artists.

Response: Disagree (wholly). The primary reason fees have increased is the growing cost of salary and fringe benefits for City employees, as well as a re-assessment of the true costs of the program to include the cost of administrative overhead and management and supervision. Additionally, the fees have increased because of City Attorney costs. Street Artists program staff relies on City Attorney advice when responding to public information requests, public documents requests, and complaints submitted to the Sunshine Ordinance Task Force, and not in defending the Program Director.

Finding F29: The Street Artists depend on volunteer managers for the bulk of on-site supervision and program operations.

Response: Disagree (wholly). In addition to paid program staff and paid advisory committee members, there is only one volunteer "manager" who was elected by street artists who sell in only one area of the Street Artists Program: Justin Herman Plaza. Although he coordinates a lottery system for artists to obtain spaces in which to sell at the Plaza, he has no authority in managing or enforcing the provisions of the Street Artists Ordinance which include examining the wares of street artists, licensing the artists, inspecting the artists' wares, and enforcing the regulations governing their selling activities.

Finding F30: The Street Artists Program Manager is currently under investigation by the DA for violations of the Sunshine Ordinance.

Response: Not requested.

Finding F31: There has been no current memorandum of understanding between SFAC and the Rec & Park Department concerning the use of Justin Herman Plaza since 1991.

Response: Agree.

Finding F32: A Street Artist has never served as a Commissioner for SFAC.

Response: Agree.

Finding F33: Selling spaces have declined from 433 in 2008 to 375-380 spaces currently.

Response: Disagree (partially). While the number of year-round (not winter holiday) spaces has declined since 2008, the current number of year-round spaces is 414 (not 375-380).

Recommendation R17: Move the Street Artists Program to the Office of Small Business.

Response: This recommendation will not be implemented by the SFAC. The SFAC does not have the authority to transfer its responsibility for licensing the street artists to any other department. Furthermore, there is a petition on record, signed by hundreds of street artists, requesting the program remain under the purview of the SFAC.

Recommendation R18: The District Attorney respond to Sunshine Complaint No. 11023.

Response: The SFAC is not in a position to respond to this recommendation because it pertains exclusively to actions to be taken (or not) by the District Attorney's Office.

Recommendation R19: Legal expenses for the Sunshine Ordinance defense be paid from an account, other than the Street Artist Fund.

Response: This recommendation cannot be implemented. Current law requires the Street Artists program to generate license fee revenue sufficient to fully recover the costs of administering the program, which includes the cost of the City Attorney.

Recommendation R20: Appoint a current or former Street Artist to whichever Commission oversees them.

Response: This recommendation cannot be implemented by the SFAC. The Mayor, and not the SFAC, appoints both Arts Commissioners and Street Artists Advisory Committee members.

Recommendation R21: Develop new spaces for the Street Artists.

Response: This recommendation has been implemented over the past 32 years. Of the current 414 year-round spaces plus 60 additional winter holiday spaces (obtained

annually) for the artists, the SFAC obtained 298 of the spaces for the artists from 1980 to the present.

Furthermore, the Street Artists Program Director has spoken at meetings with Planning Department personnel and Fisherman's Wharf business representatives to ensure that 9 spaces on Jefferson Street will remain for the artists upon completion of the Jefferson Street renovation.

V. Symphony Fund

Finding F34: For general operating and SFAC Gallery exhibition expenses, SFAC relies on public funds that are designated by Charter for "maintenance of a symphony orchestra . . . "

Response: Disagree (wholly). The SFAC appropriates the entire Charter mandated set-aside for the "maintenance of a symphony orchestra" to the San Francisco Symphony on an annual basis, in compliance with City law. The San Francisco Symphony optionally chooses to gift monies equal to approximately $800K annually to the SFAC, to be used for whatever purpose the SFAC chooses, as stipulated in the long-standing agreement between the two organizations. The SFAC uses grants and gifts from a number of sources, including a gift from San Francisco Symphony, to fund the SFAC Galleries program (salaries, fringe benefits, exhibition and other program expenditures) as well as SFAC general operating expenses.

Finding F35: Since 1935, SFAC has chosen the San Francisco Symphony as recipient of those funds.

Response: Agree.

Finding F36: SFAC is without legal or practical recourse if SFS revoked its annual contribution of 40% of those funds given to SFAC.

Response: Disagree (wholly). If the San Francisco Symphony did not make an annual gift to the SFAC, then the SFAC could approach the Mayor's Office and Board of Supervisors for an additional appropriation of General Fund dollars. We will defer to the City Attorney on the subject of what, if any, legal recourse would be available should the written agreement pertaining to San Francisco Symphony's annual gift be revoked.

Finding F37: The manner in which SFAC funds its operations by a giveback donation of SFS monies creates, at the least, an appearance of fiscal impropriety and violates the intent of the 1935 Charter amendment.

Response: Disagree (wholly). The SFAC complies with Charter Section 16.106 and appropriates all funds for a municipal symphony orchestra as required by law. The Arts Commission also has the authority to accept gifts, including gifts from the San Francisco Symphony, under section 5.100 of the City Charter.

Finding F38: GFTA funds the San Francisco Symphony for over $600,000 annually for operating expenses.

Response: Not requested.

Finding F39: Until December 2011, SFAC was out of compliance with City and State regulations and Arts Commission policy governing the gifting of donated Symphony tickets to public officials and other organizations.

Response: Agree.

Recommendation R22: The Arts Commission/Symphony Agreement comply with the intent of the Charter, and the full amount of the tax revenues go toward Symphony operating expenses.

Response: Recommendation has been implemented. The SFAC complies with Charter Section 16.106 and appropriates all funds for a municipal symphony orchestra as required by law. The SFAC also has the authority to accept gifts, including gifts from the San Francisco Symphony, under section 5.100 of the City Charter.

Recommendation R23: Redirect Hotel Tax Fund money allocated to the SFS by GFTA to the SFAC.

Response: This recommendation cannot be implemented by the SFAC. The decision to redirect Hotel Tax Fund money allocated to Grants for the Arts is a policy decision for the City Administrator, the Mayor's Office and the Board of Supervisors, in collaboration with Grants for the Arts.

Recommendation R24: SFAC properly report the disposition of the concert tickets given to it by SFS in compliance with City and State regulations.

Response: This recommendation is in the process of being implemented. As of December 2011, the SFAC has followed State and City procedures for tracking and reporting all ticket distribution. The SFAC is currently conferring with the City Attorney to ensure all forms are in compliance.