

FILE NO. 161085

Petitions and Communications received from September 26, 2016, through October 7, 2016, for reference by the President to Committee considering related matters, or to be ordered filed by the Clerk on October 18, 2016.

**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 Board of Appeals, submitting pursuant to Charter Section 4.103, FY 2015-2016 Annual Report. Copy: Each Supervisor. (1)

From Clerk of the Board, submitting 60 Day Receipt of the Civil Grand Jury Report: "San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department." Copy: Each Supervisor. (2)

From Office of the Controller, pursuant to Admin. Code, Section 2.10, submitting status of Civil Grand Jury Recommendations FY 2014-2015. (3)

From Office of the Controller, regarding Airport Commission's compliance audit: Pelican Communications, Inc. Copy: Each Supervisor. (4)

From Department of Human Resources, submitting SEIU Labor Management Committee on Health & Safety & Workers' Compensation Report. Copy: Each Supervisor. (5)

From Department of Human Resources, pursuant to Admin. Code, Section 16.82, submitting Hospitalization and Medical Treatment Annual Report. Copy: Each Supervisor. (6)

From Office of the Controller, regarding SFMTA's compliance audits: Japan Center and Zuckerberg San Francisco General Hospital garages for 7/1/13 through 6/30/15. Copy: Each Supervisor. (7)

From Office of the Sheriff, pursuant to Admin. Code, Chapter 96A, submitting Second Quarter 2016 Report pursuant to Law Enforcement Reporting Requirements. Copy: Each Supervisor. (8)

From Treasure Island Development Authority, pursuant to Ordinance No. 10-13, submitting revised Clipper Cove Special Use Area Rules and Regulations, effective October 1, 2016. Copy: Each Supervisor. (9)

From Department of Public Health, submitting an Admin. Code, Section 12B, Waiver Request. Copy: Each Supervisor. (10)

From State Fish and Game Commission, submitting notice of proposed regulatory action relating to tribal take in north coast marine protected areas. Copy: Each Supervisor. (11)

From State Fish and Game Commission, submitting 15-day continuation notice of proposed regulatory action relating to Upland Game Bird Special Hunt Drawing and Application Fee. Copy: Each Supervisor. (12)

From State Fish and Game Commission, submitting notice of proposed regulatory action relating to standards for imposing penalty enhancements for illegal take of game with defined characteristics. Copy: Each Supervisor. (13)

From State Fish and Game Commission, submitting notice of proposed regulatory action relating to Falconry regulations. Copy: Each Supervisor. (14)

From West Area California Public Utilities Commission, regarding Notification Letter for various Verizon Facilities. Copy: Each Supervisor. (15)

From California Board of State and Community Corrections, regarding 2012-2014 biennial inspections of SFPD temporary holding facilities. Copy: Each Supervisor. (16)

From concerned citizens, regarding public access to existing roads and trails in the Peninsula Watershed Lands. 2 letters. File No. 160183. Copy: Each Supervisor. (17)

From Millennium Partners, regarding Yerba Buena Gardens Conservancy. File No. 160756. Copy: Each Supervisor. (18)

From American Civil Liberties Union, regarding the Final Report of the Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement. File No. 160806. Copy: Each Supervisor. (19)

From Police Department, regarding the Final Report of the Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement. File No. 160806. Copy: Each Supervisor. (20)

From Entertainment Commission, regarding proposed Ordinance allowing the Director of the Entertainment Commission to extend the hours during which Live Performances may be presented at Limited Live Performance Locales in the Union Street Neighborhood Commercial District. File No. 160962. Copy: Each Supervisor. (21)

From City of Brisbane, regarding proposed Resolution pertaining to the Brisbane Baylands. File No. 161044. Copy: Each Supervisor. (22)

From concerned citizens, regarding construction in the Rincon Hill Neighborhood. 31 letters. Copy: Each Supervisor. (23)

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**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: FY16 Board of Appeals Annual Report  
**Attachments:** FY16 Annual Report.pdf

**From:** Goldstein, Cynthia (PAB)  
**Sent:** Thursday, September 29, 2016 11:50 AM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Subject:** FY16 Board of Appeals Annual Report

Please find attached a copy of the FY 2015-16 Annual Report for the Board of Appeals, submitted pursuant to the requirements of Charter Section 4.103.

Thank you.

Cynthia G. Goldstein  
Executive Director  
San Francisco Board of Appeals  
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San Francisco, CA 94103  
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Fax: 415-575-6885  
Email: [cynthia.goldstein@sfgov.org](mailto:cynthia.goldstein@sfgov.org)



# BOARD OF APPEALS ANNUAL REPORT



FY 2016

# MISSION

The Board of Appeals is a quasi-judicial body that was first created by the San Francisco Charter of 1932. It provides the public with final administrative review of appeals relating to a wide range of City determinations, including the granting, denial, suspension, revocation and modification of permits, licenses, and other use entitlements by various departments, Commissions and other entities of the City & County of San Francisco.

As it hears and decides cases, the Board of Appeals strives to provide an efficient, fair and expeditious public hearing and decision-making process before an impartial panel.

# BOARD MEETINGS & MEMBERSHIP

Board meetings are held on Wednesdays starting at 5:00 p.m. in City Hall and are open to the public and broadcast on SFGovTV, the City's government television station.<sup>1</sup> Meetings are conducted in accordance with the Rules of the Board of Appeals. Closed captioning is provided. The Board's meeting agendas, minutes, and the briefs and other materials associated with the cases heard are posted on the web ([www.sfgov.org/boa](http://www.sfgov.org/boa)).



The five-member Board is comprised of three members appointed by the Mayor and two by the President of the Board of Supervisors. All appointments are to staggered four-year terms and require approval by the Board of Supervisors. In July 2016, President Honda and Vice President Fung were reappointed by Mayor Edwin Lee and Commissioner Swig was reappointed by Board of Supervisors President London Breed.

<b>Commissioner</b>	<b>Appointing Authority</b>	<b>Appointment Date</b>	<b>Term Expires</b>
<i>Darryl Honda President</i>	Mayor	December 4, 2012	July 1, 2020
<i>Frank Fung<sup>2</sup> Vice President</i>	Mayor	October 19, 2004	July 1, 2020
<i>Ann Lazarus</i>	Mayor	July 25, 2012	July 1, 2018
<i>Rick Swig</i>	Board of Supervisors	April 2, 2015	July 1, 2020
<i>Bobbie Wilson</i>	Board of Supervisors	September 30, 2014	July 1, 2018

<sup>1</sup> [http://sanfrancisco.granicus.com/ViewPublisher.php?view\\_id=6](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6) and cable television channels 26 and 78. Board meetings also may be streamed on-demand.

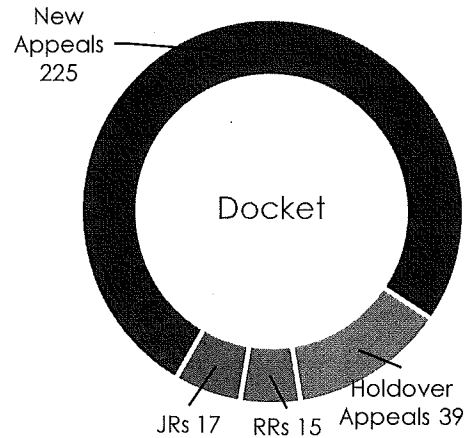
<sup>2</sup> Commissioner Fung also served on the Board from January 1986 to June 1988.

# APPEAL EXPERIENCE

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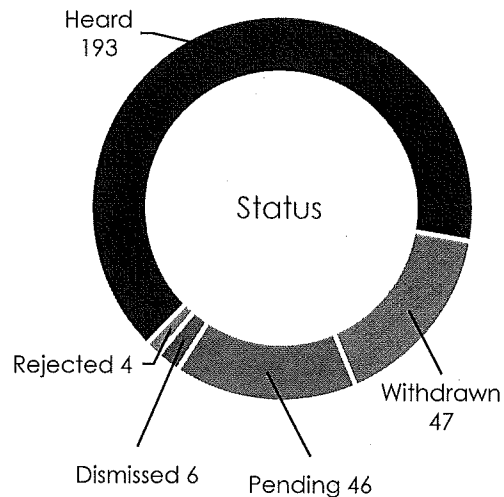
There were 296 matters on the Board's docket during the year:

- 257 new matters filed
  - 225 appeals
  - 17 jurisdiction requests (JRs)
  - 15 rehearing requests (RRs)
- 39 pending or continued appeals carried forward from prior years



The Board heard 193 (65%) of the matters on the docket:

- 168 appeals
- 13 rehearing requests
- 12 jurisdiction requests



Of the 103 (35%) matters not heard:

- 47 were withdrawn
- 46 were pending, having been filed late in the year such that they will be heard in the next year
- 6 were dismissed when the underlying permit was canceled
- 4 were rejected due to a lack of subject matter jurisdiction<sup>3</sup>

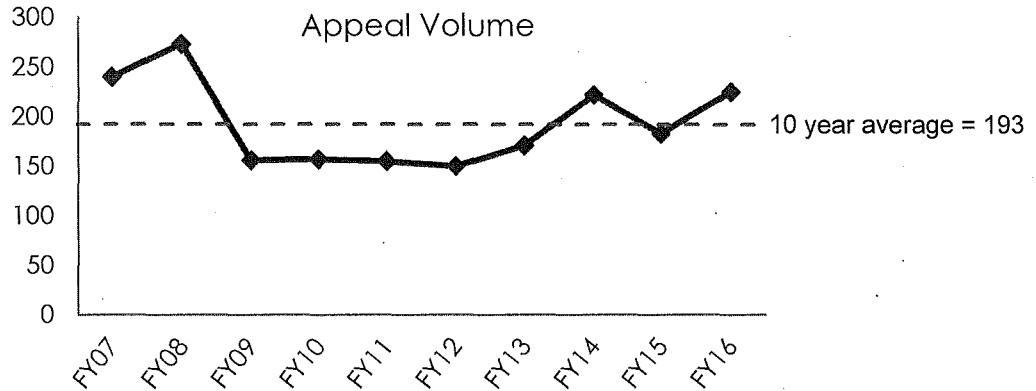
An overview of the Board's jurisdiction, the standard of review applied to various appeal types, and a description of the appeal process is available in Appendix B.

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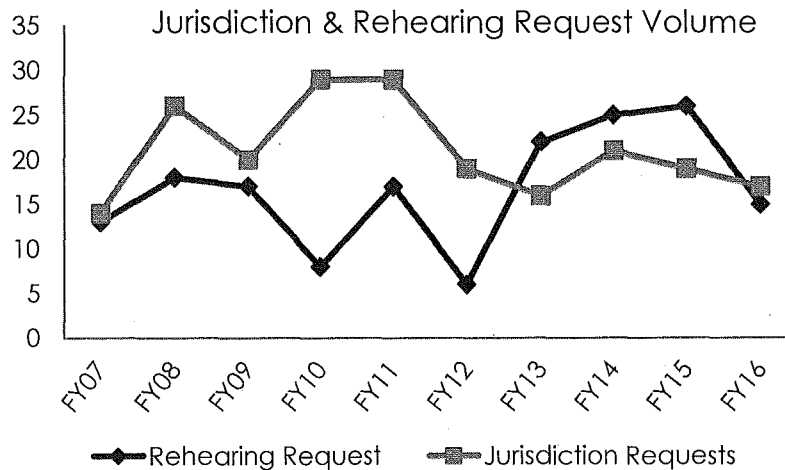
<sup>3</sup> For example, the Board lacks subject matter jurisdiction over building permits related to projects that have been given conditional use authorization. (See, San Francisco Charter Section 4.106(b).)

## Volume

The 225 new appeals filed during the year is 16.5% above the ten-year average of 193 appeals, and 23% above last year's volume. Annual appeal volume fluctuates for a variety of reasons: the health of the City's economy; new permitting legislation or business trends that trigger a spike in a particular appeal type; and specific enforcement efforts by the City that result in appealable penalties. This year, 29% of new appeals were from two clusters of appeals filed in response to City-initiated enforcement actions.<sup>4</sup>



As depicted below, the number of rehearing requests and jurisdiction requests has remained relatively low each year.



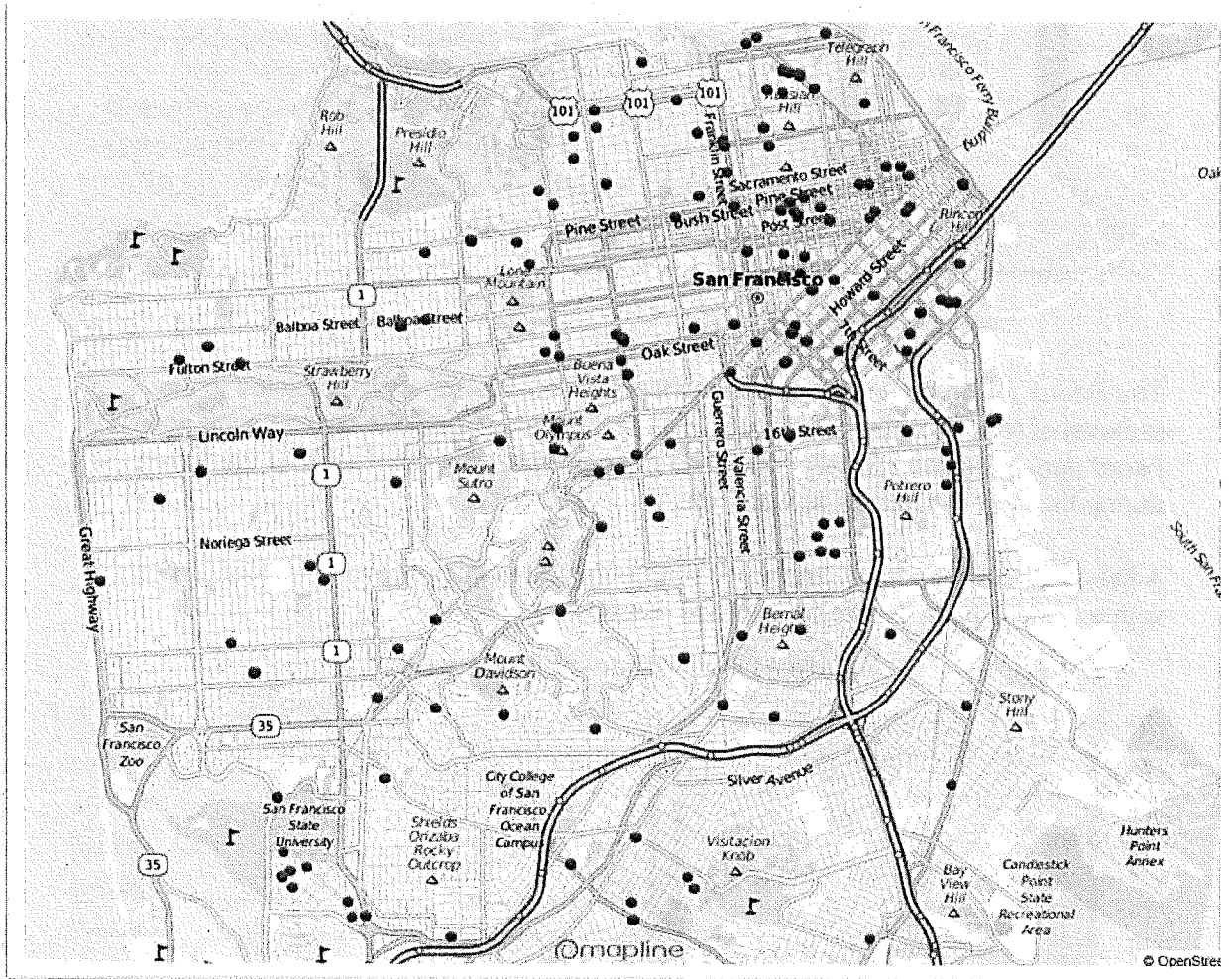
<sup>4</sup> Thirty-five appeals were filed protesting the denial of sign permits resulting from an enforcement effort to bring a sign company into compliance with the Planning Code; 22 appeals were filed by the Academy of Art University protesting Notices of Violation and Penalty issued by the Zoning Administrator.



## Geographic Distribution

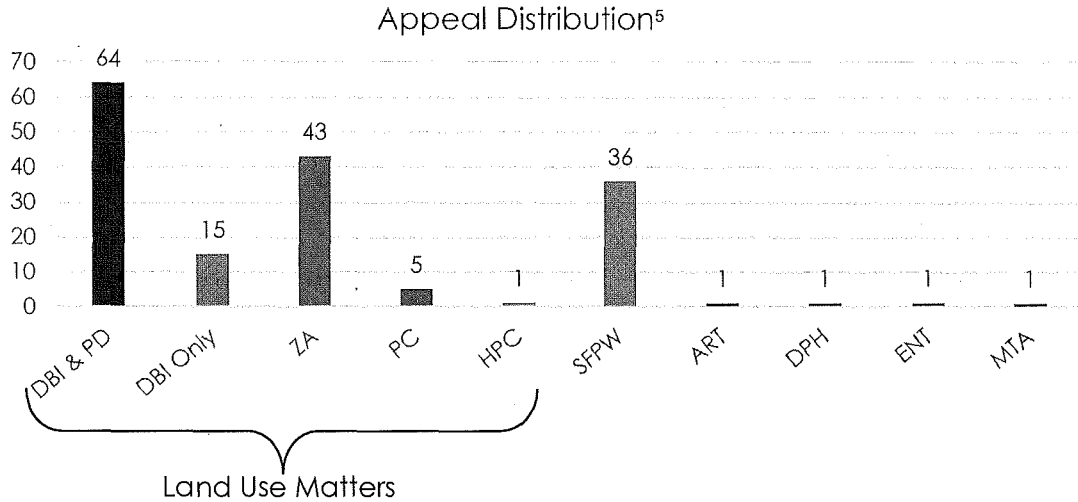
The properties subject to appeals heard by the Board during the year were dispersed throughout San Francisco. The highest concentration is seen in the City's northeast quadrant, which is typical for the Board.

Geographic Distribution of Appeals Heard



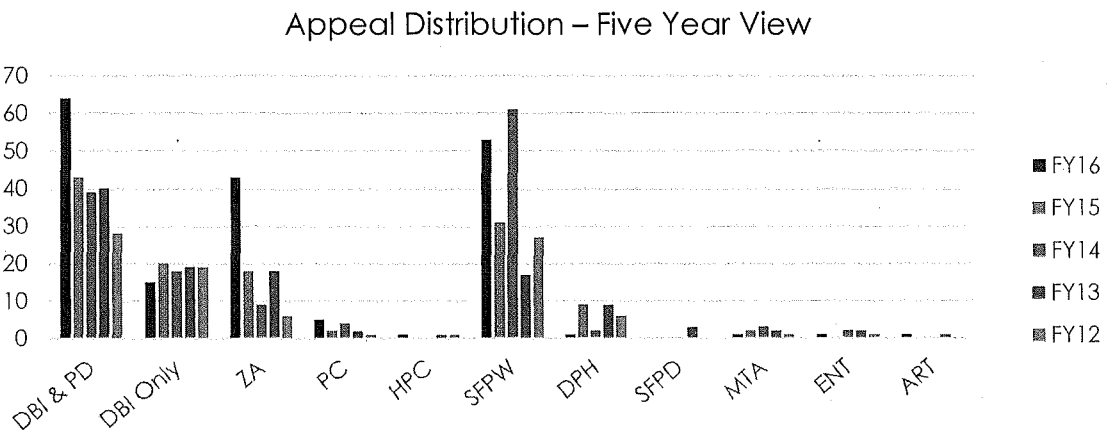
## Subject Matter

Of the 168 appeals heard by the Board, 76% were related to land-use determinations made by the Department of Building Inspection, the Planning Department, Planning Commission, Zoning Administrator or Historic Preservation Commission.



The Board continued to experience an increased number of appeals related to the removal of residential units, primarily units that were unpermitted, with 17 such appeals heard during the year. Detailed information on all of the appeals heard by the Board during the year is available in Appendix A.

A five-year view of appeal volume by source illustrates fluctuations from year-to-year, with a consistent emphasis on land use matters.

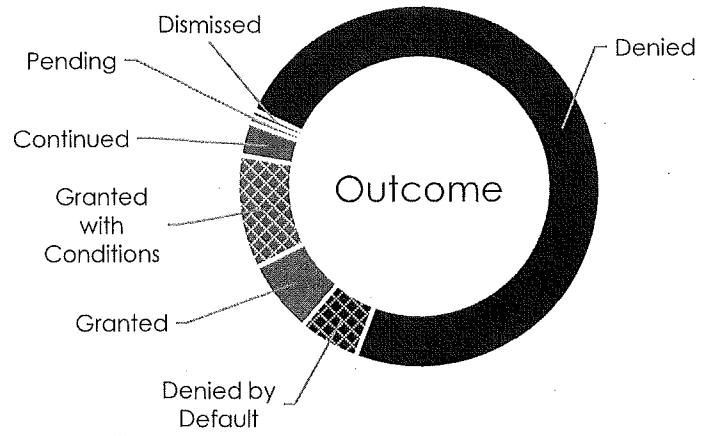


<sup>5</sup> DBI = Department of Building Inspection; PD = Planning Department; ZA = Zoning Administrator; PC = Planning Commission; HPC = Historic Preservation Commission; SFPW = Public Works; AC = Arts Commission; DPH = Public Health; EC = Entertainment Commission; MTA = Municipal Transportation Agency.

## Appeal Outcome

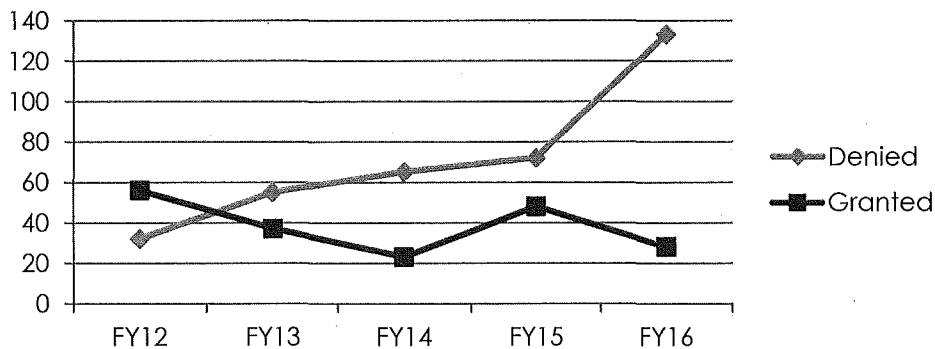
Of the 168 appeals heard during the year:

- In 124 cases (74%), the Board voted to deny the appeal and uphold the underlying departmental decision
- In 9 cases (5%), the appeal was denied by default because the Board was unable to muster sufficient votes to grant or deny the appeal
- In 11 cases (6%), the Board granted the appeal and completely overturned the underlying departmental decision
- In 17 cases (10%), the Board granted the appeal on the condition that the underlying determination be modified in some way
- Of the remaining 7 cases (5%):
  - 5 cases were continued by the Board after hearing
  - 1 case was pending at the close of the year awaiting a hearing on a rehearing request
  - 1 case was dismissed when the permit was canceled after the initial hearing but before a decision was rendered



Appeal outcome can fluctuate significantly from year to year. In some years, there is a clear reason for the trend. For example, the spike in denied appeals this year was due, in part, to the Board denying two clusters of nearly identical appeals: 35 appeals of sign permit denials, and 22 appeals of Notices of Violation issued to one entity.

Outcome - Over Time



## Rehearing Requests & Jurisdiction Requests

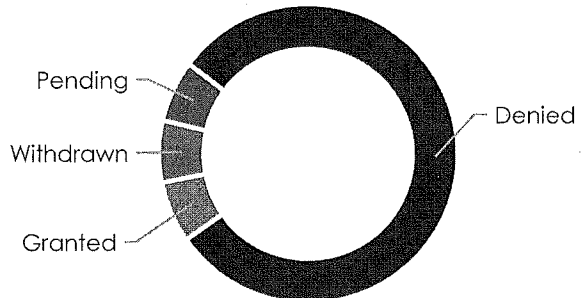
In addition to appeals, the Board routinely considers rehearing requests and jurisdiction requests.

### Rehearing Requests

Once an appeal is decided by the Board, the parties associated with the case have ten days within which they may request that the Board reconsider its decision.<sup>6</sup> To be granted a rehearing request, the moving party must persuade at least four Board members that a rehearing is needed to prevent manifest injustice or because there is new evidence that may affect the outcome of the original hearing.<sup>7</sup>

There were 15 rehearing requests on the Board's docket during the year:

- 12 denied
- 1 granted
- 1 withdrawn
- 1 pending at the close of the year

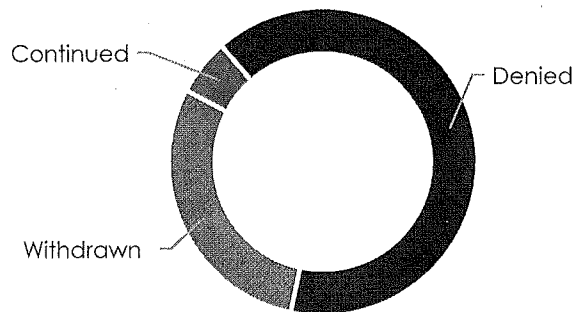


### Jurisdiction Requests

The Board may allow an appeal to be filed after the relevant appeal period has expired based upon a showing that some error on the part of the City caused the failure to file on time.<sup>8</sup> For example, City error may occur where neighborhood notification of a construction project is required under the Planning Code and this notice failed to properly describe the scope of work, or where such notice wasn't sent to all of the required addresses. A supermajority of votes is needed for such a request to be granted.

There were 17 jurisdiction requests before the Board during the year:

- 11 denied
- 5 withdrawn
- 1 continued to the Call of the Chair calendar
- No jurisdiction requests were granted



<sup>6</sup> See San Francisco Business and Tax Regulations Code, Article 1, §16; and Rules of the Board of Appeals, Article V, §9.

<sup>7</sup> Rules of the Board of Appeals, Article V, §9(b).

<sup>8</sup> See Franklin v. Steele, 131 Cal. App. 3d 558 (1982); Rules of the Board of Appeals, Article V, §10.

# LITIGATION

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Parties dissatisfied with a Board determination may seek further review and relief in court. During the year, five new lawsuits were filed in which the Board of Appeals was named as a party and seven lawsuits were resolved. Five of the resolved cases were in favor of the City and two decisions were settled. A description of pending lawsuits and their status is provided in Appendix C.

# BUDGET

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The robust numbers of permit applications filed with the City and new appeals filed with the Board during the year produced revenue that exceeded projections. The Board closed the year with a surplus of \$287,718, derived from surplus revenue and expenditure savings.

## Revenue Detail

The Board's revenue budget is derived from two sources:

- 95% from surcharges placed on permit applications for the types of permits that have a recent history of being appealed to the Board<sup>9</sup>
- 5% from fees paid by individuals, community groups and businesses at the time a new appeal is filed

Each year, the Controller's Office analyzes whether the surcharge rates will provide sufficient revenue to cover the Board's projected operating expenses. Any needed adjustment beyond the rate of inflation requires legislative action, as does any change to filing fees.<sup>10</sup> No adjustments were made for FY16, based on a decreased expenditure budget (discussed below) and the Controller's projection that the existing rates would generate sufficient revenue. In fact, \$1,149,199 total revenue was generated, exceeding projections by 24%.

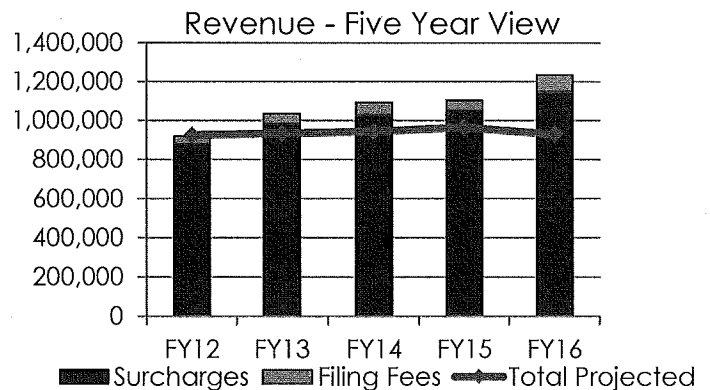
### Projected v. Actual Revenue

	<b>Projected</b>	<b>Actual</b>	<b>Surplus (\$)</b>	<b>Surplus (%)</b>
Surcharge Revenue	\$882,567	\$1,063,449	\$180,882	20%
Filing Fee Revenue	\$46,037	\$85,750	\$39,713	86%
Total Revenue	\$928,604	\$1,149,199	\$220,595	24%

<sup>9</sup> Surcharges are calculated by (1) determining the number of appeals filed in the prior fiscal year that originated with actions taken by each funding department, (2) applying the percentage of appeals for each department to the Board's expenditure budget to determine the dollar amount each funding department should contribute, and (3) dividing this dollar amount by the anticipated number of appealable permits issued by each funding department.

<sup>10</sup> See San Francisco Administrative Code Chapter 10G and San Francisco Business and Tax Regulations Code Article 1, §8.

Board surcharge revenue, derived from permit applications filed with other City departments, fluctuates with the health of the City's economy. With the City's recent strong economic years, the Board's surcharge revenue has grown. Filing fee revenue grew this year as well, due to an increase in appeal volume and the fact that a larger portion of new appeals were of the type associated with higher filing fees. This year, the Board exceeded revenue projections in both budget streams for the fourth year in a row.



### Expenditure Detail

The Board's expenditure budget<sup>11</sup> is based on an estimate of the number of appeals that will be processed each year and the attendant costs. The Board went into the year with a smaller expenditure budget as compared to the prior year, due to a reduction in rent and in fringe benefit rates associated with retiree expenses. The Board's actual expenditures were 8.6% (\$81,209) below projections due to savings in several areas this year.

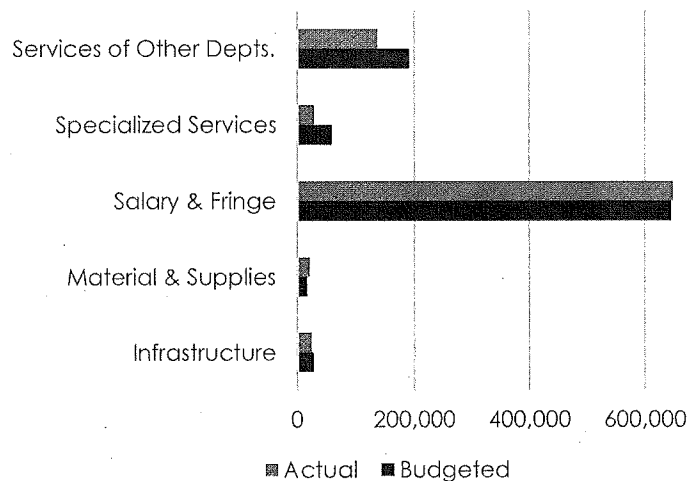
Costs were lower than projected for:

- City Attorney services
- SFGovTV broadcasting
- Interpreters
- Neighborhood notification data
- Copier/scanner rental

Costs were higher than projected for:

- Certain fringe benefits
- Postage, due to several very large neighborhood notification mailings

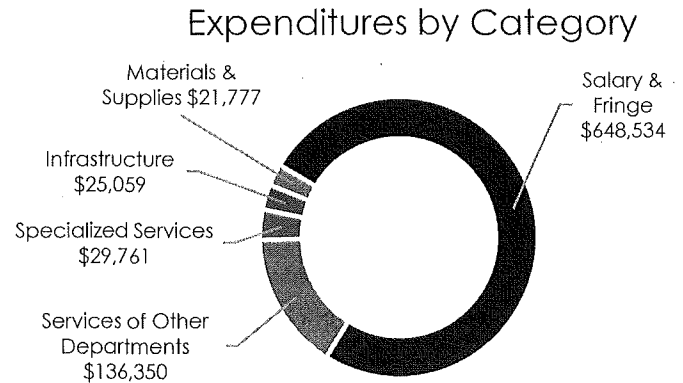
Actual v. Budgeted Expenditures by Type



<sup>11</sup> The Board's projected revenue and expenditure budgets are not always balanced at the start of the fiscal year, and were not balanced this year. This discrepancy is caused when expenditure changes are made close to the end of the City's budget process, such as for fringe benefit rates. Since the revenue budget and surcharge rates have been set by that point in the process, and the expenditure changes are typically small, the Controller's Office assumes there will be sufficient revenue to cover expenses, or that funds can be allocated from the Board's rainy day fund. This year, the disparity was \$14,086.

The \$861,481 expended by the Board during the year was apportioned as follows:

- 75% for staff salaries and fringe benefits
- 16% for the services of other City departments, such as the City Attorney and Department of Technology
- 3.5% for specialized services such as the firm that researches neighborhood notification addresses and interpreters who assist limited English speakers at Board meetings
- 3% for infrastructure costs such as office rent, photocopier and telephones
- 2.5% for materials and supplies, including postage for neighborhood notification mailings

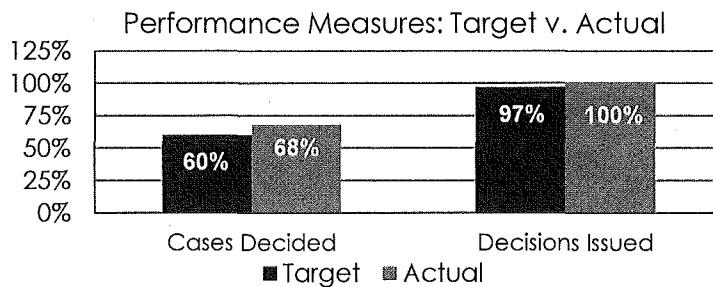


The Board's total year-end surplus of \$287,718<sup>12</sup> was added to the 'rainy day' fund (deferred credit account) that was established to allow the Board to save the extra dollars generated in strong economic times for use in years when there is a revenue deficit. This allows the Board to be self-sufficient and avoid relying on General Fund dollars in lean revenue years.

## PERFORMANCE MEASURES

All City departments are required to report on specific statistical measures as a way of assessing and documenting performance. The two measures unique to the Board look at how long it takes for the Board to decide cases and how quickly written decisions are issued.

- Measure 1: how often cases are decided within 75 days of filing
  - delays may occur when continuances are requested by the parties seeking time for settlement negotiations or further case preparation
- Measure 2: how many decisions are issued within 15 days of final Board action
  - delays may occur when two or more appeals are filed on one determination but a request for rehearing is filed on only one of the appeals; the Board's decision is held until the final outcome is known for all connected appeals



<sup>12</sup> This figure reflects the \$14,086 disparity between the Board's revenue and expenditure budgets described in footnote 11.

# APPENDIX A – APPEAL DETAIL

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A description of the cases heard by the Board during the year is set out below.

## Department of Building Inspection and Planning Department

Of the 64 appeals stemming from determinations made by the Department of Building Inspection (DBI) that also involved Planning Department review:

- 35 protested the denial of sign permits applications submitted by Contest Promotions, a company seeking to legalize signs placed throughout the City
- 29 protested the issuance of building permits, typically filed by individuals or groups of neighbors concerned that proposed construction will negatively impact their property or neighborhood
  - Appeals often focus on how a home expansion or new deck may create sightlines into a neighbor's windows or restrict access to light and air
  - 8 of these protest appeals were by tenants protesting the removal of residential units

The Board denied 83% (53) of these appeals and granted 15.5% (10), placing conditions on the underlying permits in 9 of the appeals granted. One case (1.5%) was dismissed when the permit was canceled after the Board heard the case but before it was decided.

## Department of Building Inspection Only

Of the 15 appeals stemming from determinations made solely by the Department of Building Inspection:

- 13 protested the issuance of a building, electrical or plumbing permit
  - Of these, 9 were appeals filed by tenants protesting the removal of residential units
- 1 protested a penalty imposed by DBI for work performed without a permit
- 1 protested the Development Impact Fee Report issued by DBI on a proposed 12-story office building

The Board denied 67% (10) of these appeals and granted 27% (4), imposing conditions in one of the appeals granted. The remaining 6% (one case) was continued by the Board to allow time for structural plans to be reviewed by DBI, which would settle the matter.

## Zoning Administrator

The Board heard 43 appeals of Zoning Administrator (ZA) determinations:

- 24 protested Notices of Violation and Penalty (NOVP)
  - 22 of the NOVP appeals were filed by Academy of Art University
- 13 protested the granting or denial of variances
- 4 protested Letters of Determination (LOD)



- An LOD interprets certain Planning Code provisions or how the Code applies to a particular factual situation at a given address; for example, what the legal use is of a property, whether decks are considered in rear yard averaging, or if alcohol may be sold in a particular zoning district
- 1 protested the ZA's request to release a suspension on a permit
- 1 protested the ZA's request to rescind the revocation of a permit

The Board denied 93% (40) of the appeals of Zoning Administrator determinations, granted 2% (1), and continued 5% (2).

### San Francisco Public Works

Thirty-six of the appeals heard relate to determinations made by the San Francisco Public Works (SFPW):

- 19 were related to tree removal permits; 16 protesting the issuance of such a permit and 3 protesting a permit denial
- 11 protested the issuance of wireless box permits for the installation of cell phone equipment in the public right-of-way
- 3 were of mobile food facility permits; 2 protesting the issuance of these permits and 1 appealing a permit denial
- 3 were of permits to allow tables and chairs on the sidewalk in front of a business or restaurant; 2 protesting permit issuance and 1 protesting conditions placed on such a permit

The Board denied 55.5% (20) of the SFPW-related appeals and granted 36% (13), imposing conditions in 7 of the granted appeals. Two cases (5.5%) were continued and one (3%) was denied.

### Planning Commission

There were five appeals of Planning Commission decisions heard by the Board during the year, all of which were denied.

- 3 protested exceptions granted under Planning Code Section 309 for a mixed-use development on Hyde Street
- 1 protested an Office Allocation under Planning Code Section 321 for the Golden State Warriors Arena and Event Center project
- 1 protested the Large Project Authorization granted under Planning Code Section 329 for a residential development on Arkansas Street

### Additional Appeals

- Arts Commission
  - The Board upheld the denial of a street artist certificate that was appealed by the permit applicant

- Department of Public Health
  - The Board upheld the denial of a tobacco sales establishment permit that was appealed by the permit applicant
- Entertainment Commission
  - The Board denied an appeal protesting the issuance of a Place of Entertainment Permit for the Golden State Warriors Arena and Event Center
- Historic Preservation Commission
  - The Board denied an appeal protesting the issuance of a Certificate of Appropriateness authorizing work associated with the Van Ness Bus Rapid Transit Project in the Civic Center Historic District
- Municipal Transportation Agency – Division of Taxis and Accessible Services
  - The Board denied an appeal of the revocation of a Color Scheme Permit

## APPENDIX B – APPEAL OVERVIEW

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### Jurisdiction

The majority of appeals decided by the Board are filed pursuant to the authority granted to the Board in the San Francisco Charter. Charter Section 4.106(b) reads:

The Board shall hear and determine appeals with respect to any person who has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn, or who believes that his or her interest or the public interest will be adversely affected by the grant, denial, suspension or revocation of a license or permit....

The Charter excludes from the Board's jurisdiction appeals of building and demolition permits for projects that have been granted a conditional use authorization by the Planning Commission<sup>13</sup> and determinations made by the Recreation and Park Commission or Department, or by the Port Commission.<sup>14</sup>

Other City laws also give the Board authority to hear specific types of appeals. Examples include:

- Certain Planning Commission determinations, such as Large Project Authorizations (Planning Code (P.C.) §329), exceptions granted under P.C. §309, and decisions about office developments under P.C. §322
- Certificates of Appropriateness issued by the Historic Preservation Commission
- Project Development Fees assessed by the Department of Building Inspection<sup>15</sup>

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<sup>13</sup> Appeals of the underlying conditional use authorization may be made to the Board of Supervisors.

<sup>14</sup> San Francisco Charter §4.106(b).

<sup>15</sup> Planning Code §1006.7 and Building Code §107A.13.9.2.

The Board also hears appeals pursuant to memoranda of understanding (MOU) entered into with other City departments or entities. For example, the Board and the Port Commission agreed to have appeals of Port-related entertainment permits heard by the Board.

## Standard of Review

Most appeals are heard by the Board *de novo*, without giving deference to the legal conclusions or assumptions made by the underlying decision-maker such as a departmental hearing officer or Commission. The Charter specifies, however, that in order to overturn certain decisions of the Zoning Administrator, the Board must find either an error in the Zoning Administrator's interpretation of the Planning Code or an abuse of discretion. This 'error or abuse of discretion' standard also applies to the Board's review of some Planning Commission decisions, where required by Code.

## Appeal Process

The San Francisco Business and Tax Regulations Code<sup>16</sup> establishes many of the parameters of how appeals are handled by the Board. This includes the cost to file an appeal, the Board's obligation to notify neighboring property owners and occupants when an appeal is filed, when determinations that have been appealed should be suspended pending the outcome of the Board process, and other procedural matters. Additional requirements governing the appeal process are set out in the Rules of the Board of Appeals. Among other things, these Rules are designed to ensure the process is fair to all involved, and include guidelines on how parties and members of the public may communicate with Board members.

Appeals must be filed within the legally prescribed appeal period, which varies depending upon the underlying determination being appealed. For most matters, the appeal period is fifteen days from the date the determination is issued, but other appeal periods may apply. For example, variance decisions issued by the Zoning Administrator must be appealed within ten days, and the public has thirty days to file an appeal of a Certificate of Appropriateness issued by the Historic Preservation Commission. In limited situations, the Board may allow an appeal to be filed late. Pursuant to the Board's Rules, late appeals are allowed when a City error caused a would-be appellant to miss the appeal period.<sup>17</sup>

The parties to each appeal, including the City department that issued the determination being appealed, are encouraged to submit written arguments and other evidence for the Board's consideration. When an appeal is filed, a schedule is established for these submittals. The Board's Rules set out other requirements, such as length and formatting.<sup>18</sup> Members of the public who are not affiliated with a party to the appeal also may submit briefs, letters and other evidence in support of their position on an appeal.

After reviewing the written file, Board members conduct a public hearing at which they consider the testimony of the parties and comments from interested neighbors and other members of the public. After deliberation, the Board may vote to grant or deny the appeal.

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<sup>16</sup> Article 1, §8, *et seq.*

<sup>17</sup> Rules of the Board of Appeals, Article V, §10.

<sup>18</sup> Rules of the Board of Appeals, Article V, §4.

A denied appeal upholds the underlying departmental determination. When an appeal is granted, the underlying departmental determination is either completely overruled or modified in some way.

Modifications that may be imposed by the Board are wide-ranging. They include:

- Changing building plans, for example:
  - Setting back a portion of an addition, deck or other structure so it is further from a protesting neighbor's property line
  - Adding a privacy screen such as lattice or plantings to a new deck to limit sightlines into neighboring windows
  - Obscuring glass in neighbor-facing windows
  - Establishing 'good neighbor' policies such as limiting when construction may take place and how construction-related complaints will be handled
- Changing the length of a suspension imposed on a tobacco sales, massage establishment or taxi driving permit, or imposing a suspension instead of permit revocation
- Limiting the items that may be sold by a food truck, or modifying hours of operation
- Modifying the financial penalties imposed for construction work performed without a permit
- Altering the number or size of replacement trees when allowing trees to be removed

In addition, the Board may adopt revised construction plans or other permit modifications that have been agreed to by the parties as part of a settlement.

On occasion, the Board will decide to continue a matter, typically to allow additional information to be prepared and submitted to the Board, or to give the parties time to negotiate a resolution. In rare instances a matter may be continued indefinitely (to the Board's Call of the Chair calendar) because an unknown amount of time is needed before the Board may move forward with making a determination.

The Charter<sup>19</sup> requires the vote of a supermajority of Board members in order for an appeal to be granted and the underlying department decision to be overturned or modified.<sup>20</sup> When the Board is fully seated, four out of five votes are required; when there is a vacancy, three votes are needed. A supermajority of votes is also needed in order for the Board to grant a rehearing request or jurisdiction request. For some appeals heard by the Board under the authority of City Code and not the Charter, a simple majority is sufficient.

---

<sup>19</sup> See San Francisco Charter §4.106(d).

<sup>20</sup> Some Planning Commission determinations that are under the Board's jurisdiction pursuant to City Code and not the Charter may be modified or overturned based on the vote of a simple majority.

# APPENDIX C – LITIGATION DETAIL

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Set out below is a description of the lawsuits in which the Board is named as a party; that were filed, pending or resolved during the year.

## **AIDS Healthcare Foundation, Inc. (AHF) v. City & County of San Francisco, et al.**

**PENDING.** A federal lawsuit was filed challenging (1) the City's implementation of interim zoning controls applying formula retail restrictions to the commercial district where AIDS Healthcare Foundation (AHF) seeks to open a pharmacy; and (2) the Board's August 21, 2014 dismissal of an appeal protesting the release of a suspension on AHF's building permit. The Board dismissed the appeal as moot based on a finding that the interim controls require AHF to obtain a conditional use authorization from the Planning Commission before the permit suspension may be lifted. In January 2015, the District Court granted the City's motion to dismiss AHF's petition, with leave to amend. After AHF amended its petition, the City filed another motion to dismiss, at which time AHF asked for a stay of the litigation while AHF applied for a conditional use authorization for its pharmacy. The City agreed. The conditional use application was denied in January 2016 and AHF failed to timely file a separate lawsuit challenging the Planning Commission's denial. A renewed motion to dismiss is pending.

## **Contest Promotions, LLC v. City & County of San Francisco, et al.**

**NEW.** This lawsuit arises out of a dispute over the constitutionality of Planning Code provisions regulating onsite business signs. The petitioner seeks to maintain currently posted signs that the City contends do not conform to Planning Code requirements, including a requirement that at least two-thirds of each sign display a message related to the primary business on the premises. On January 20, 2016, the Board upheld the Planning Department's denial of 35 sign permit applications. In July 2016, this case was consolidated with a related lawsuit. Briefing and hearing is pending.

## **Angela Cross v. San Francisco Board of Appeals**

**DISMISSED.** A tenant at 57 Eureka Street challenged the Board's July 1, 2015 decision to deny two appeals protesting the issuance of electrical and plumbing permits that would remove the unpermitted dwelling unit in which she was living. This case was dismissed without prejudice on March 28, 2016, after the petitioner failed to name an indispensable party (the property owner) in her complaint and was unable to cure the defect in the pleading.

## **Robert E. Gonzales v. San Francisco Board of Appeals**

**PENDING.** A lawsuit was filed in Superior Court by an adjacent property owner challenging the Board's August 26, 2015 decision to uphold a permit to erect a building at 333 Pennsylvania Avenue. On January 6, 2016, the Court denied the petitioner's motion for immediate relief, stating it failed to establish that the Planning Code or Residential Design Guidelines were violated. At that time, the petitioner requested a deferment of any further proceedings while he negotiated a settlement with the project sponsor. The negotiation process is ongoing.

**Tu Lam v. San Francisco Municipal Transportation Agency, et al.**

**PENDING.** A challenge was filed to the Board's decision on May 29, 2009 to revoke Mr. Lam's taxi driving permit and taxi medallion. On December 7, 2009, the Court denied the petitioner's request for a stay of the revocation of his driving permit and medallion while his legal claims are pending. A hearing on the underlying writ petition has not yet been scheduled. Since the revocation of the permit and medallion were never stayed, the City is leaving the burden of prosecuting the case with the plaintiff.

**Mission Bay Alliance, et al. v. Office of Community Investment and Infrastructure, et al.**

**ON APPEAL.** Two lawsuits were filed seeking to set aside project approvals associated with the construction of the Golden State Warriors Arena and Event Center in the City's Mission Bay neighborhood. One suit focuses on environmental approvals and the other challenges various project entitlements, including a Place of Entertainment Permit and Office Space Allocation, both of which were appealed to and approved by the Board. In July 2016, a Superior Court judgment was entered denying both writ petitions. In August 2016, these judgments were appealed, though the office allocation argument was abandoned. A hearing on the appeal is scheduled for mid-November and a decision is expected in early 2017.

**1049 Market Street, LLC v. City & County of San Francisco, et al. (Federal Court)**

**1049 Market Street, LLC v. Aaron Miller, et al., and City & County of San Francisco, et al. (S.F. Superior Court)**

**PENDING.** Two lawsuits were filed, one in federal court and the other in state court, by the owner of a six-story building challenging, among other things, the Board's April 8, 2015 decision to grant an appeal filed by residential tenants protesting the Zoning Administrator's (ZA) Release of Suspension Request on a permit to convert live-work units to commercial space. The state case asserts claims under CEQA, a vested rights theory and several constitutional claims. The federal case focuses on federal constitutional claims. Because both suits challenge the same conduct and seek the same damages, the federal court agreed to let the state court resolve issues of local land use law before it determines whether any federal constitutional issues remain. On this basis, the federal lawsuit was stayed pending the outcome in state court.

In April 2016, the City won the state court case on all issues except the jurisdictional issue relating to whether the Board had properly considered the validity of the permit. The court remanded the matter to the Board for reconsideration of whether the ZA erred or abused his discretion in determining that the property's principally permitted use as an office had not been abandoned, but left the Board the option to apply recently adopted legislation requiring a Conditional Use Authorization when deciding the issues presented. The case is currently on appeal and the plaintiff has filed two additional lawsuits in state court. The first is for damages (for claims of unconstitutional taking and violation of vested rights) both of which were directly rejected by the trial court in the first case. The second suit challenges the City's adoption of legislation requiring a Conditional Use Authorization for the removal of residential units on CEQA grounds.

**Oswald & Seley v. City & County of San Francisco, et al.**

**DECIDED.** The neighbors of a project at 312 Green Street challenged the Board's February 11, 2015 decision (by default) to uphold a Rear Yard Variance to construct a 3rd and 4th floor addition to a two-story single-family residential building. On January 21, 2016, the Superior Court denied the writ, finding that the Zoning Administrator had not abused his discretion. The matter was appealed but the petitioners subsequently dismissed the appeal and the case is now closed.

**Mica I. Ringel v. City & County of San Francisco, et al.**

**STAYED.** This lawsuit challenges, among other things, the Board's August 14, 2013 decision to deny a request to file a late appeal of a Zoning Administrator Letter of Legitimization. The Letter legitimizes an existing "Internet Services Exchange" use in a building located on Potrero Avenue. Since the lawsuit was filed, the property was sold and the new owner has indicated no intent to develop the parcel as an "Internet Services Exchange." The matter was stayed with an expectation that it would become moot.

**San Francisco Coalition for Children's Outdoor Play, Education and the Environment v. City and County of San Francisco, et al.**

**DECIDED.** This lawsuit challenged the environmental determination associated with a coastal zone permit upheld by the Board on September 13, 2012. The permit was issued in conjunction with the proposed renovation of the athletic fields at the western end of Golden Gate Park. The Superior Court dismissed the lawsuit upholding the environmental determination and all City approvals in December 2013. In September 2015 the Court of Appeal affirmed and in January 2016 the California Supreme Court denied a request for publication of the Appellant Court decision and closed the case.

**765 Market St. Residential Owners Assoc., et al. v. City & County of San Francisco, et al.**

**SETTLED.** This case challenged the City's decision to approve the 706 Mission Street – Mexican Museum Project to construct a high rise residential building in the Yerba Buena Neighborhood. Among the claims was a challenge to a Board decision on July 31, 2013 to reject a request that it hear an appeal of a Planning Commission Motion made under Planning Code Section 295 dealing with shadows on public land. Also challenged was the Board's upholding of a Planning Commission determination granting exceptions under Planning Code Section 309. Petitioners lost at the trial court and appealed. A settlement was reached and the appeal was dismissed on March 10, 2016.

**Andrei Urazov & Philip Brady v. City & County of San Francisco, et al.**

**DECIDED.** A lawsuit was filed by adjacent property owners challenging the Board's June 3, 2015 decision to uphold the issuance of a permit for the construction of a horizontal and vertical addition at 2809-2811 Polk Street. On May 26, 2016, the Court denied the writ petition, finding no abuse of discretion by the Board in its upholding of the disputed permit. The petitioner waived any right to appeal this Order and the judgment is now final.

**Taffi Vasquez and Jimmy Zafur v. San Francisco Board of Appeals, et al.**

**OFF CALENDAR.** Tenants at 2691 20<sup>th</sup> Avenue challenged the Board's decision on August 5, 2015, to deny a request to file a late appeal made by tenants seeking to protest the issuance of a permit to remove the unpermitted dwelling unit in which they were living. This case was removed from the Court's calendar on March 3, 2016 based on a lack of evidence that it had been served or the administrative record submitted. A related unlawful detainer action between petitioners and their landlord has been settled and dismissed.



---

**From:** Major, Erica (BOS)  
**Sent:** Wednesday, September 28, 2016 3:14 PM  
**To:** Board of Supervisors, (BOS)  
**Subject:** FW: 60 Day Receipt - Civil Grand Jury: San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department  
**Attachments:** 60 Day Receipt - SF Building and Fire Safety.doc.pdf

Please add to c-pages, thanks!

**ERICA MAJOR**  
Assistant Clerk  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102  
Phone: (415) 554-4441 | Fax: (415) 554-5163  
[Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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*Disclosures: 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 provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

**From:** Major, Erica (BOS)  
**Sent:** Wednesday, September 28, 2016 2:53 PM  
**To:** BOS-Supervisors <bos-supervisors@sfgov.org>  
**Cc:** BOS-Legislative Aides <bos-legislative\_aides@sfgov.org>; 'Kathie Lowry' <klowry@sfcgj.org>; 'Kitsaun King' <kking@sfcgj.org>; 'jcunningham@sfcgj.org' <jcunningham@sfcgj.org>; 'ascott@sfcgj.org' <ascott@sfcgj.org>; Howard, Kate (MYR) <kate.howard@sfgov.org>; Valdez, Marie (MYR) <marie.valdez@sfgov.org>; Hui, Tom (DBI) <tom.hui@sfgov.org>; Strawn, William (DBI) <william.strawn@sfgov.org>; Jayin, Carolyn (DBI) <carolyn.jayin@sfgov.org>; Harris, Sonya (DBI) <sonya.harris@sfgov.org>; Gamino, Miguel (TIS) <miguel.gamino@sfgov.org>; German, David (TIS) <david.german@sfgov.org>; Hayes-White, Joanne (FIR) <joanne.hayes-white@sfgov.org>; Kelly, Naomi (ADM) <naomi.kelly@sfgov.org>; Scanlon, Olivia (FIR) <olivia.scanlon@sfgov.org>; Conefrey, Maureen (FIR) <maureen.conefrey@sfgov.org>; Rosenfield, Ben (CON) <ben.rosenfield@sfgov.org>; Steeves, Asja (CON) <asja.steeves@sfgov.org>; Givner, Jon (CAT) <jon.givner@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Campbell, Severin (BUD) <severin.campbell@sfgov.org>; Wasilco, Jadie (BUD) <jadie.wasilco@sfgov.org>  
**Subject:** 60 Day Receipt - Civil Grand Jury: San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department

Supervisors:

Please find the attached 60-day receipt from the Clerk of the Board documenting the required department responses for the Civil Grand Jury Report, "San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department

of Building Inspection and San Francisco Fire Department” has been received. This matter is *anticipated* to be heard in the Government Audit and Oversight Committee on Friday, October 7, 2016, at 9:30 a.m. in the Chamber Room 250. The departments that have submitted their response as required are as follows:

- Department of Building Inspection
- Building Inspection Commission
- Department of Technology
- Fire Chief/Fire Department
- Fire Commission

Thank you for your attention.

Best,

**Erica Major**  
**Assistant Clerk**

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163

[Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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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: September 28, 2016  
TO: Members of the Board of Supervisors  
FROM: ~~ACC~~ Angela Calvillo, Clerk of the Board  
SUBJECT: 2015-2016 Civil Grand Jury Report "San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department"

We are in receipt of the following responses from the Fire Commission received on September 16, 2016, a consolidated response from the Department of Building Inspection and Building Inspection Commission received on September 19, 2016, Fire Department received on September 19, 2016, and Department of Technology received on September 23, 2016, for the San Francisco Civil Grand Jury report released July 21, 2016, entitled: **San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department**. Pursuant to California Penal Code, Sections 933 and 933.05, City Departments shall respond to the report within 60 days of receipt, or no later than September 19, 2016.

For each finding, the Department response shall:

- 1) agree with the finding; or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation, the Department shall report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided; or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

These departmental responses are being provided for your information, as received, and may not conform to the parameters stated in California Penal Code, Sections 933.05, et seq. The Government Audit and Oversight Committee will consider the subject report, along with the responses, at an upcoming hearing and will prepare the Board's official response by Resolution for the full Board's consideration.

c: Honorable John K. Stewart, Presiding Judge  
Kathie Lowry, 2016-2017 San Francisco Civil Grand Jury  
Kitsaun King, 2016-2017 San Francisco Civil Grand Jury  
Jay Cunningham, 2015-2016 San Francisco Civil Grand Jury  
Alison Scott, 2015-2016 San Francisco Civil Grand Jury  
Kate Howard, Mayor's Office  
Marie Valdez, Mayor's Office  
Tom Hui, Department of Building Inspection  
William Strawn, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection  
Sonya Harris, Building Inspection Commission  
Miguel Gamino, Jr., Department of Technology  
David German, Department of Technology  
Chief Joanne Hayes-White, Fire Department  
Kelly Alves, Fire Department  
Olivia Scanlon, Fire Department  
Maureen Conefrey, Fire Commission  
Ben Rosenfield, Office of the Controller  
Asja Steeves, Office of the Controller  
Jon Givner, City Attorney's Office  
Alisa Somera, Office of the Clerk of the Board  
Severin Campbell, Budget and Legislative Analyst's Office  
Jadie Wasilco, Budget and Legislative Analyst's Office

**FIRE COMMISSION**  
City and County of San Francisco  
Edwin M. Lee, Mayor

RECEIVED VIA EMAIL  
9/16/2016  
FILE NO. 160817

Francee Covington, *President*  
Ken Cleaveland, *Vice President*  
Stephen A. Nakajo, *Commissioner*  
Michael Hardeman, *Commissioner*



698 Second Street  
San Francisco, CA 94107  
Telephone 415.558.3451  
Fax 415.558.3413  
Maureen Conefrey, *Secretary*

September 16, 2016

Erica Major  
Assistant Clerk of the Board  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102

Attn: Government Audit and Oversight Committee

Re: Civil Grand Jury Report  
2015-16 Civil Grand Jury - Fire Safety Inspections in San Francisco:  
A tale of Two Departments: Department of Building Inspection and  
San Francisco Fire Department

Dear Ms. Major:

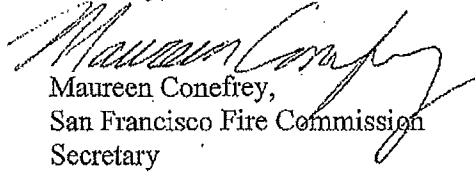
Pursuant to your email dated July 27, 2016, attached is the San Francisco Fire Commission's response to the 2015-16 Civil Grand Jury's Report, "Fire Safety Inspections in San Francisco: A tale of Two Departments: Department of Building Inspection and San Francisco Fire Department".

It is our understanding that this matter will be heard at the Government Audit and Oversight Committee on October 5, 2016, in City Hall, Chamber Room 250 at 9:30 a.m. Fire Commission President, Francee Covington will attend the hearing.

It is also our understanding that once this matter has been heard at that meeting, you will forward the response to Presiding Judge of the Superior Court, Hon. John K. Stewart.

Thank you for your attention to this matter.

Sincerely,



Maureen Conefrey,  
San Francisco Fire Commission  
Secretary

cc: Fire Commissioners  
Chief Joanne Hayes-White  
Jay Cunningham, Foreperson 2016-2016 Civil Grand Jury

2015-16 Civil Grand Jury  
 Fire Safety Inspections in San Francisco  
 A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department  
 June 2016

CGJ Year	Report Title	Findings	Responding Dept.	2016 Responses (Agree/Disagree) Use the drop down menu	2016 Response Text
2015-2016	Fire Safety Inspections in San Francisco	F.III.1. DBI and SFFD inspect multi-unit residential buildings for many of the same fire safety hazards but do not coordinate any of their inspections or code enforcement efforts including not sharing information.	Fire Commission	Partially agree with finding (explanation in next column)	<p>SFFD is always open and willing to foster and improve interdepartmental engagement and collaboration. In the particular case of DBI and SFFD, one must take into consideration the very different business models of DBI and SFFD. DBI has staffing dedicated to R2 inspections, whereas the SFFD Fire Suppression Truck and Engine Companies are first and foremost tasked with first responder duties. SFFD inspection of R2 occupancies is both an imperative and a responsibility that must be timed in a manner so as to not compromise health and safety emergencies. In spite of differing business models per above, there are key ways to enhance and drive greater collaboration.</p> <ol style="list-style-type: none"> <li>1. Establish a perpetual working committee (that meets with a regular cadence) and seeks to evaluate the Housing Code and the Fire Code *in parallel*, identify where there is a lack of overlap, and develop a referral process to support these areas in a proactive and transparent manner.</li> <li>2. Implement a 21st century closed loop, digital solution that enables DBI and SFFD to seamlessly share data across departments and provide online access to interdepartmental referral tracking and reporting.</li> </ol>

2015-16 Civil Grand Jury  
 Fire Safety Inspections in San Francisco  
 A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department  
 June 2016

CGJ Year	Report Title	Recommendations	Responding Dept.	2016 Responses (Implementation) Use the drop-down menu	
2015- 2016	Fire Safety Inspections in San Francisco	R.111.1 The Building Inspection Commission and Fire Commission should require a task force be formed to study DBI and SFFD inspection and code enforcement processes and make recommendations on how they can coordinate their efforts.	Fire Commission	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	The Fire Commission will work with the DBI Commission to implement a task force. The goal is to have a task force in place by February 2017.



City and County of San Francisco  
Department of Building Inspection  
San Francisco Fire Department



Edwin M. Lee, Mayor  
Tom C. Hui, S.E., C.B.O., Director  
Joanne Hayes-White, Fire Chief

September 19, 2016

Received via email  
9/19/2016  
File Nos. 160817

The Honorable John K. Stewart  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Dear Judge Stewart:

Pursuant to Penal Code Section 933 and 933.05, this letter transmits the San Francisco's Fire Department and Department of Building Inspection's joint responses to the findings and recommendations in the 2015-16 San Francisco Civil Grand Jury report, Fire Safety Inspections in San Francisco, A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department issued on July 21, 2016. We would like to thank the members of the Civil Grand Jury for their interest in ensuring the fire safety of San Francisco residents in multi-residential buildings throughout the City.

Ensuring fire safety in residential buildings has long been, and remains, an important mandate of the San Francisco Fire Department and the Department of Building Inspection's Housing Inspection Services. Over the last several years, we have been working diligently to increase coordination and information sharing between Departments, as well as conducting public outreach to educate tenants on fire safety. For the new Fiscal Year 2016-2017, DBI and the San Francisco Fire Department will continue to take an active role in addressing fire safety by partnering to provide increased tenant awareness and education on fire prevention in older, mixed-use buildings through DBI's existing Code Enforcement Outreach Program. Through our joint participation in the Emergency Fire Safety Working Group, three new ordinances related to fire safety will go into effect later this month. These new ordinances are the result of hard work and coordination by both Departments.

Our Departments are committed to ensuring fire safety in residential buildings throughout the City and will continue to work together to protect the fire and life safety of residents in these buildings.

A detailed response from the San Francisco Fire Department and the Department of Building Inspection to the findings and recommendations are being provided in separate covers.

Thank you for the opportunity to comment on this Civil Grand Jury report.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Hui".

Tom Hui, S.E., C.B.O.  
Director, Department of Building Inspection

A handwritten signature in black ink, appearing to read "Joanne Hayes-White".

Joanne Hayes-White  
Fire Chief, San Francisco Fire Department

Department of Building Inspection, 1660 Mission Street, San Francisco CA 94103  
Office (415) 558-6088 – FAX (415) 558-6401  
Website: [www.sfdbi.org](http://www.sfdbi.org)  
San Francisco Fire Department, 698 Second Street, San Francisco, CA 94107  
Office (415)-558-3403 – FAX (415)558-3407  
Website: [www.sf-fire.org](http://www.sf-fire.org)



September 19, 2016

The Honorable John K. Stewart  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Dear Judge Stewart:

Pursuant to Penal Code Section 933 and 933.05, the San Francisco Building Inspection Commission and the Department of Building Inspection jointly transmit our responses to the findings and recommendations in the 2015-16 San Francisco Civil Grand Jury report, Fire Safety Inspections in SF, A Tale of Two Departments: DBI & SFFD issued on July 21, 2016. We would like to thank the members of the Civil Grand Jury for their interest in ensuring the fire safety of San Francisco residents in multi-residential buildings throughout the City.

Ensuring fire safety in residential buildings has long been, and remains, an important mandate of the Department of Building Inspection's Housing Inspection Services. Over the last year, we have been working diligently in collaboration with the Fire Department to increase coordination and information sharing between departments, as well as conducting public outreach to educate tenants on fire safety. For the new fiscal year 2016-2017, DBI and the Fire Department will continue to take an active role in addressing fire safety by partnering to provide increased tenant awareness and education on fire prevention in older, mixed-use buildings through DBI's existing Code Enforcement Outreach Program. Through our joint participation in the Emergency Fire Safety Working Group, three new ordinances related to fire safety will go into effect later this month. These new ordinances are the result of hard work and coordination by both departments.

The Housing Inspection Services Division of DBI is tasked with the daily implementation and enforcement of the San Francisco Housing Code, and pertinent related City Codes, which establish and maintain minimum maintenance standards for existing residential buildings. DBI Housing Inspection Services works to safeguard life, health, property, and public welfare by conducting periodic health and safety inspections and responding to tenant complaints. In fiscal year 2014-2015 alone, over 11,500 inspections were conducted, with more than 950 inspections conducted each month, or 45 inspections daily, of the more than 18,000 properties in the City, utilizing current code enforcement tools and inspection protocols and best practices. DBI Housing Inspection Services has cited over 36,000 habitability violations over the last three years, with an 88% rate of abatement.


As a result of our pro-active and collaborative role with neighborhood-based organizations and the use of our hearing, assessment and lien processes, DBI performs more follow-up enforcement than any comparable department in the United States. We utilize an extensive and intensive hands-on code enforcement process and approach, which results in the public obtaining up-to-date information on their building by visiting our Permit and Complaint Tracking System, available 24/7 online.

**OFFICE OF THE DIRECTOR**  
1660 Mission Street – San Francisco CA 94103  
Office (415) 558-6131 – FAX (415) 558-6225  
Email: Tom.Hui@sfgov.org

DBI is committed to ensuring fire safety in residential buildings throughout the City. We'll continue to work to protect the fire and life safety of residents in these buildings by maintaining housing habitability and conducting the requisite inspections to ensure that property owners comply with the required codes.

Thank you, again, for the opportunity to respond to this Civil Grand Jury report. If you have any questions about this response, please contact us at (415) 558-6131.

Sincerely,



Angus McCarthy, President  
Building Inspection Commission



Tom Hui, S.E., C.B.O., Director  
Department of Building Inspection

**Department of Building Inspection's Responses to 2015-2016 Civil Grand Jury Report**  
September 19, 2016

<b>2016 Civil Grand Jury Report: San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Finding</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.1. Housing Inspection Services ("HIS") does not know which R-2s have not been inspected within the last five years because the Complaint Tracking System ("CTS") cannot generate a list of R-2s with an accurate last routine inspection date for each.	DBI Management Information Services	Disagree with it, wholly	DBI HIS knows which R-2s need to be inspected, and has been using current data tools to identify R-2 occupancies eligible for routine inspections. DBI HIS has a methodology and process in place to do this.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.2. The spreadsheet used by HIS to track key inspection statistics has not been updated to include all rounds of Focused Code Enforcement completed to date.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS tracks each round of Focused Code Enforcement inspections, which are updated regularly as part of HIS ongoing business practices.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.3. Because "Routine Inspections" that are reported to the Building Inspection Commission on a monthly basis include the number of initial routine inspections and reinspections that have been conducted, this performance measure is misleading. The total number of initial routine inspections that have been conducted is the correct statistic for determining how many R-2s have had the Code mandated routine inspection at least every five years.	Building Inspection Commission	Disagree with it, partially	This data is already being provided during the regular HIS update reports at monthly BIC meetings.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.4. HIS cannot get an accurate list of R-2s in the City without the help of DBI Management Information Systems ("DBI MIS") because HIS does not have access to the DBI database that stores this information.	DBI Management Information Services and Information and Technology Department	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.5. DBI MIS doesn't always generate the initial list of R-2s, including the property's address and property owner's contact information, for HIS	DBI Management Information Services and DBI Chief Housing Inspector	Disagree with it, wholly	DBI MIS can and does generate R-2 lists to HIS personnel.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.6. The final list of R-2s for routine inspections is created manually because inspectors and/or support staff must look up the date of the last routine inspection for each R-2. When inspectors do this, it takes them away from conducting inspections.	DBI Chief Housing Inspector, DBI Management Information Services and DBI Director	Disagree with it, wholly	DBI MIS can and does generate R-2 lists for HIS inspectors. Support staff already assists with the pertinent data gathering.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.7. Although the routine inspection backlog that existed in the Mission, Chinatown and Tenderloin Districts has been reduced through Focused Code Enforcement, a routine inspection backlog still exists in these areas.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS has already eliminated backlog in Focused Code Enforcement areas.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.8. Inspectors do not choose the same "Source" and "Abatement Type" when documenting routine inspections. Unless all the possible ways to document a routine inspection are known and CTS report parameters are chosen to capture all the possible alternatives, some routine inspections will not be captured by a report purported to list all routine inspections.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS has already implemented solutions to address appropriate reporting parameters as part of the division's ongoing business practices.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.9. Since CTS does not have "Complaint Generated Routine" as an option for documenting the "Source" for CG routine inspections, CTS cannot separately track and report on complaint generated routine inspections ("CG routine inspections").	DBI Management Information Services	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.10. Inspectors do not choose the same "Source" when documenting CG routine inspections. When inspectors choose "Complaint" as the Source, the CG routine inspection will not be counted as a routine inspection in CTS, and HIS will not have an accurate last routine inspection date for those R-2s.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS has already implemented this approach as part of the division's ongoing business practices.

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2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.11. District inspectors do not always conduct a CG routine inspection while they are investigating a complaint at an R-2 even when the R-2 has not had a routine inspection for five years because they are "too busy." HIS accepts inspectors being "too busy" as an excuse for not conducting a complaint generated routine inspection.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS has already implemented this policy as part of the division's ongoing business practices associated with routine and complaint inspections.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.12. HIS' Standard Operating Procedure ("SOP") does not explicitly require inspectors to conduct a CG routine inspection while they are investigating a complaint at an R-2 when the R-2 has not had a routine inspection within the last five years.	DBI Chief Housing Inspector	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.13. District inspectors do not always know when an R-2, at which they are investigating a complaint, is due for a complaint generated routine inspection because there is no clear requirement to "research" the last routine inspection date before investigating a complaint.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS inspectors do research properties before they go out and conduct an inspection. Inspectors are required to conduct routine inspections on every complaint inspection.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.14. Inspectors cannot always get into an R-2 to perform a scheduled routine inspection because of "no shows." Since CTS cannot track "no shows," inspectors sometimes lose track of the fact that a routine inspection still needs to be conducted on the R-2s that have a "no show."	Building Inspection Commission	Disagree with it, wholly	DBI HIS keeps track of this information using CTS and through the Focused Code Enforcement process. The property owner is billed for assessment of cost for time it takes to secure access.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.15. HIS has started to manually track "no shows" on an Excel spreadsheet that tracks results of their Focused Code Enforcement. However, this spreadsheet has not been completed for all routine inspections conducted under Focused Code Enforcement.	DBI Chief Housing Inspector	Disagree with it, wholly	No shows are already captured within the current tracking system, and noted on the Complaint Data Sheet.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.16. There was a significant number of inspection "no shows" in the Chinatown (17%) and Mission (15%) Districts and in the Mission Street Corridor (16%). Oftentimes "no shows" are not followed up on because staff is "too busy" to research the property owner's correct address or phone number.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS does take additional steps to schedule subsequent inspections with property owners. The Department utilizes available property information it has access to. The current routine inspection letter encourages property owners to provide their contact details, and we utilize such information when received in processing routine inspections.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.17. Inspection packets that are sent to property owners sometimes go to an incorrect address because data provided by the Tax Assessor's Office does not have up-to-date contact information for the property owner.	DBI Chief Housing Inspector	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.18. Inspection packets are sent to property owners only in English.	DBI Chief Housing Inspector	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.19. The inspection packet cover letter is confusing and buries vital information in the text.	DBI Chief Housing Inspector	Disagree with it, wholly	The current inspection request package is a comprehensive product of direct customer feedback, and contains required language per Chapter 3 of the San Francisco Housing Code, and per advice from the City Attorney. DBI will continue to update this package based upon code requirements and customer needs.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.20. The Property Owner Maintenance Checklist included in the inspection packet is not explained as being the list of items that will be inspected.	DBI Chief Housing Inspector	Disagree with it, wholly	The Property Owner Maintenance Checklist is not the list of the areas to be inspected. As the title indicates, this is informational material for all types of residential occupancies. The Checklist is in the current form because DBI customers have requested the Department consolidate all the information into one checklist. The areas subject to a site inspection are delineated within the content of the request letter, pursuant to the requirements of Chapter 3 of the San Francisco Housing Code and advice from the City Attorney.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.1.21. Instructions on what the property owner needs to do with the appendage and carbon monoxide/smoke alarm affidavits included in the inspection are not included on the affidavits or elsewhere in the inspection packet.	DBI Chief Housing Inspector	Disagree with it, wholly	The Informational Packet has detailed self-contained information for each of the subjects, including owner responsibilities for appendage and carbon monoxide-smoke alarm affidavits.

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2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.22. Including notices, ordinances and information flyers in the inspection packet without explaining their purpose is confusing.	DBI Chief Housing Inspector	Disagree with it, partially	The Informational Packet changes, as necessitated by new legislation. DBI will add a clarifying sentence to the cover letter to coincide with other legislative changes.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.23. Inspection documentation is done twice (first in the field and again into CTS when the inspector returns to the office) because there is no online access to CTS.	DBI Director	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.24. Photos cannot be uploaded into CTS because CTS does not have this functionality. Instead, they are stored on the network "P" drive which is not connected to CTS	DBI Director	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.25. Affidavits are not available online.	DBI Management Information Services	Disagree with it, wholly	Blank affidavits are available online through the website, and in the Maintenance Packet provided to the public.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.26. Inspectors are not able to print NOV's in the field. Therefore, they must return to the property a second time to post the NOV on the R-2. This is a waste of time and resources.	DBI Director	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.27. CTS is not integrated with computer systems within DBI or other City departments.	DBI Director	Disagree with it, partially	CTS is already integrated with computer systems within DBI. However, DBI's system is not integrated with other City departments.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.28. CTS cannot track and report on important attributes, such as types of violations and high fire risk building characteristics.	DBI Director	Disagree with it, partially	CTS can track and report on some important attributes, such as types of violations.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.29. HIS does not measure how long NOV's take to be abated. Without tracking how long it takes for NOV's to be abated, HIS cannot determine whether it's code enforcement process is effective for correcting all violations in a timely manner.	DBI Chief Housing Inspector	Disagree with it, partially	All open code enforcement cases are tracked to determine the timeliness of follow-up and potential referral to the City Attorney.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.30. For 2013-2015, approximately twenty percent of NOV's took more than one year to correct.	DBI Chief Housing Inspector	Disagree with it, partially	In the same timeframe, nearly 50% of violations were abated within 60 days and 70% of violations within six months. Type of violations vary from every property and may be complex to address, requiring additional time. Over 10,000 violations a year are abated through DBI HIS' proactive innovative code enforcement process. The Deputy Director for Inspection Services, and the Chief Housing Inspector actively monitors all open NOV's, and takes proactive steps to work with owners and/or with the City Attorney to bring open cases to closure through the stipulated code enforcement process.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.31. HIS does not have a standard against which inspectors' grant of additional time can be measured.	DBI Chief Housing Inspector	Disagree with it, wholly	This standard is set by Section 201A.3.3 of the San Francisco Building Code. The assigned Inspector has to document whether substantial progress has commenced on a case -by-case basis in keeping with the goals of DBI's Strategic Plan.

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2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.32. When inspectors grant additional time for property owners to correct an abatement, there is no written documentation (other than an NOV) provided to the property owner that states when the next reinspection will occur or explains that violations must be abated by then. By not communicating this in writing, property owners make think that they can negotiate with the inspectors more easily. Also, some property owners may not understand what they are being told due to language differences or other reasons.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI already documents the abatement process after the initial reinspection, and transmits written warnings to the property owner for failure to comply with a Notice of Violation. If the property owner fails to comply with a Notice of Violation at the time of the initial reinspection, all subsequent abatement actions including reinspections, are highlighted on the DBI Complaint Data Sheet which is available online, and the case may be sent to a Director's Hearing and to the City Attorney for litigation, as stipulated in the existing code enforcement process.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.33. Although bi-monthly staff meetings are scheduled, they are regularly cancelled because inspectors are "too busy." Without a management culture that supports having scheduled times to discuss inspectors work, it will be difficult for HIS to optimize its code enforcement process for success.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS already schedules multiple staff meetings to discuss performance measures and code enforcement cases, which include division wide, and team meetings. These are already scheduled on a regular basis and are highly productive. The Division will continue to hold staff meetings as indicated above. In addition division staff meetings will be scheduled so that they do not conflict with other DBI calendar items to the extent possible.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.34. Based on our investigation, we concluded that HIS does not have an adequate definition for success.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS mandates and performance measures are set by the San Francisco Housing and Building Codes, and by DBI's Strategic Plan. DBI HIS already performs what is recommended, and utilizes effective tools such as its "Standard Report" to evaluate case abatement results and the potential need to redeploy or expedite resources as violation patterns and necessity dictate.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.35. Some inspectors take too long to refer open NOV's to a DH. But, HIS does not measure how long it takes an open NOV to reach a Director's Hearing.	DBI Chief Housing Inspector	Disagree with it, wholly	DBI HIS already tracks the time frames accrued before an open code enforcement case is referred to a Director's Hearing within CTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.36. Inspectors take too long to refer open NOV's to a DH because the standard for referring unabated violations to a Director's Hearing is vague and leaves too much room for interpretation.	DBI Chief Housing Inspector	Disagree with it, wholly	This standard is set by Section 201A.3.3 of the SF Building Code. The assigned Inspector has to document whether substantial progress has commenced on a case -by-case basis in keeping with the goals of DBI's Strategic Plan.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.37. Not all inspectors proactively brief their seniors after three reinspections with no progress.	DBI Chief Housing Inspector	Disagree with it, wholly	Inspectors are supervised for quality control on open cases through DBI HIS' standard reporting process.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.38. Inspectors take too long to refer open NOV's to a DH because preparing a case for referral to a Director's Hearing is more labor intensive than it should be.	DBI Director	Disagree with it, wholly	The SF Building Code dictates the requirements and steps taken in this referral process for an administrative hearing. This is labor intensive because inspector needs to assess and update the case, schedule for hearing and have supervisory review.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.39. HIS lacks more effective code enforcement tools.	DBI Chief Housing Inspector and Building Inspection Commission	Disagree with it, wholly	DBI HIS has some of the most effective enforcement tools in the United States. HIS performs more follow-up enforcement than any comparable department in the United States. In addition to a collaborative partnership with tenant groups through the Code Enforcement Outreach Program, HIS requires non-compliant property owners to attend a Director's Hearing where Orders can be recorded on land records and assessments of costs can be collected and attached to the lien process, which the Board of Supervisors issues annually.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.40. HIS does not have enough inspectors to inspect every R-2 in San Francisco at least once every five years.	DBI Director	Disagree with it, partially	Since 2012, the department has undertaken an aggressive hiring plan to increase department staffing levels that were reduced during the downturn. Housing inspector staffing has increased from 13 to 21. The department continues to review staffing needs and develop recruitment plans to meet operational needs including hiring temporary staff and developing a Housing Inspector list.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.41. Information on HIS routine inspections is buried in the DBI website.	DBI Management Information Services	Disagree with it, partially	DBI has already created a Routine Inspection informative page along with providing a direct link from HIS splash page. This page is not provided as a direct item on the homepage as other items are prioritized in its place. DBI has updated HIS website information and is continually updating content online when changes are needed.

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2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.42: Information on routine inspections on the DBI website does not provide enough information to sufficiently understand the process.	DBI Management Information Services	Disagree with it, partially	The routine inspection's page on the DBI website currently provides an overview of the process, what is expected during the routine inspection and a copy of the maintenance packet for their reference.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.43: It is not easy to find information on R-2 violations on the DBI website because many of the links to get to inspection records are labeled with terms that may not be understandable to the public. For example, calling violations "complaints" and needing to look under "HIS" for "Div."	DBI Management Information Services	Disagree with it, partially	The link to Filing a Complaint is found throughout the website and on almost every division page to allow the public easy access to complaint information provided throughCTS, which is available online, 24/7.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.I.44: Since the actual NOV is not available on the DBI website and rarely do the "comments" provide much detail about violations, the detail available to the public and tenants is not sufficient enough to understand the full extent or nature of a violation.	DBI Director	Agree	
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	F.III.1: DBI and SFFD inspect multi-unit residential buildings for many of the same fire safety hazards but do not coordinate any of their inspections or code enforcement efforts including not sharing information.	Building Inspection Commission and Fire Commission	Disagree with it, wholly	DBI coordinates with SFFD on fire safety hazards violations when needed. DBI & SFFD have made strides in coordinating code enforcement and outreach on fire safety made possible by the Code Enforcement Process Standardization ordinance and Fire Safety Task Force resolution. Also, both departments participate in the City Attorney's code enforcement task force and conducts joint inspections with other departments, as needed.



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2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.1.1. DBI MIS should determine why CTS cannot generate a report with correct last routine inspection dates for each R-2 and correct the problem.	DBI Management Information Services	Will not be implemented - Not warranted.	DBI MIS is focused on replacement of Permit Tracking System (PPTS). DBI HIS already has methodology and process to identify and act upon R-2 data until the new PPTS is in place.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.1.2. The Chief Housing Inspector should insist that the spreadsheet that tracks key statistics for routine inspections conducted as part of Focused Code Enforcement be updated to include all rounds of Focused Code Enforcement that have been completed to date.	DBI Chief Housing Inspector	Recommendation Implemented	DBI HIS already uses spreadsheets that currently tracks each round of Focused Code Enforcement inspections and are updated regularly as part of HIS ongoing business practices.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.1.3. The BIC should require that HIS report, as part of the HIS performance measures, the number of "Initial Routine Inspections" that are conducted to the BIC.	Building Inspection Commission	Recommendation Implemented	This data is already being provided during the regular HIS update reports at monthly BIC meetings. HIS continues to develop further reports to isolate additional information for the BIC's monthly meetings.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.1.4. (a) The Information and Technology Department for the City and County of San Francisco should grant HIS senior management access to and permission to run reports from the Oracle database that contains the addresses, contact information and building attributes for R-2s in San Francisco. (b) DBI MIS should train HIS personnel who will have access to the Oracle database containing the R-2 information how to use it before they have permission to run reports.	DBI Management Information Services and Information and Technology Department	(a) Will Not Be Implemented: Not Warranted (b) Will Be Implemented in the Future	(a) The Department of Technology is not involved in DBI database management and maintenance, which is managed and maintained by DBI Management Information Services. Also, the current Oracle database system does not capture the contact information and property attributes listed in recommendation I.4. and DT data does not have these attributes. (b) DBI MIS will develop a report for HIS personnel to access all R-2 information captured within DBI's Oracle system.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.1.5. If HIS is not granted access and permission to run the list of R-2s from the Oracle database that contains the necessary R-2 information, then DBI MIS should furnish this report to HIS within one week of the request.	DBI Management Information Services and DBI Chief Housing Inspector	Will Be Implemented in the Future	DBI MIS will develop a report for HIS personnel to access all R-2 information captured within DBI's Oracle system.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.1.6. (a) If DBI MIS cannot fix CTS (See R.1.1) then the Chief Housing Inspector should require support staff, rather than the inspectors, to look up last routine inspection dates. (b) If support staff is not available to look up last routine inspection dates, then the DBI Director should allocate part of the DBI budget for hiring temporary personnel to compile this information.	DBI Chief Housing Inspector, DBI Management Information Services and DBI Director	(a-b) Will Not Be Implemented: Not Warranted	(a-b) DBI MIS can and does generate R-2 lists to HIS personnel. Support staff already assists with the pertinent data gathering. DBI has been in the process of filling staffing vacancies to assist with this effort.

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2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.7. The Chief Housing Inspector should make eliminating the backlog a priority in the Mission, Chinatown and Tenderloin Districts when deciding where to conduct the next round(s) of Focused Code Enforcement.	DBI Chief Housing Inspector	Recommendation Implemented	DBI HIS has already prioritized and eliminated backlog in these areas.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.8. The Chief Housing Inspector should determine exactly what "Sources" and "Abatement Types" should be used for initial routine inspections and communicate this in writing as a procedure that every HIS inspector must follow.	DBI Chief Housing Inspector	Recommendation Implemented	DBI HIS has already implemented solutions to address this as part of the division's ongoing business practices.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.9. DBI MIS should include "Complaint Generated Routine" as a Source option in CTS so that CG routine inspections can be separately tracked and reported in CTS.	DBI Management Information Services	Will Not be Implemented: Not Warranted	DBI MIS is focused on the replacement of Permit Tracking System and is limiting updates to the current system. DBI HIS already has methodology and process in place.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.10. If "Complaint Generated Routine" is not added as a Source option in CTS, then the Chief Housing Inspector should make opening a separate complaint number for the CG routine inspection and documenting "Routines" as the Source, a mandatory policy communicated to all HIS inspectors in writing.	DBI Chief Housing Inspector	Recommendation Implemented	DBI HIS has already implemented this approach as part of the division's ongoing business practices.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.11. (a) The Chief Housing Inspector should adopt a policy requiring district inspectors to conduct complaint generated routine inspections whenever the R-2 has not had a routine inspection within the last five years. (b) The Chief Housing Inspector should adopt a policy that when district inspectors are "too busy" or for other reasons cannot conduct a CG routine inspection when the R-2 is due for one, the district inspector must notify their senior inspector in writing.	DBI Chief Housing Inspector	(a) Recommendation Implemented (b) Will Not Be Implemented: Not Warranted	(a) All available inspectors are currently performing health and safety "routine" inspections. (b) DBI HIS has already implemented this approach as part of the division's ongoing business practices. Inspectors are required to conduct routine inspections on every complaint inspection.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.12. The Chief Housing Inspector should direct HIS personnel to update the SOP to include the requirement that inspectors conduct a CG routine inspection while they are investigating a complaint at an R-2 every time the R-2 has not had a routine inspection within the last five years. And, if the inspector for some legitimate reason cannot do this, the inspector must so notify their senior inspector in writing.	DBI Chief Housing Inspector	Will Be Implemented in the Future	This is already the policy of the Housing Inspection Division pursuant to written directives (other than the SOP) transmitted to HIS staff. This recommendation will be implemented when the SOP is updated at the end of 2016.

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<b>San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Recommendation</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.13. The Chief Housing Inspector should adopt a policy that district inspectors research the date a last routine inspection was performed: either before going to that same R-2 to investigate a complaint or via CTS records that are available by smartphone on the DBI website.	DBI Chief Housing Inspector	Recommendation Implemented	This is already the policy of the Housing Inspection Division pursuant to written directives (other than the SOP) transmitted to HIS staff. DBI HIS inspectors do research properties before they go out and conduct an inspection. Inspectors are required to conduct routine inspections on every complaint inspection.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.14. The Building Inspection Commission ("BIC") should penalize property owners who miss their inspection appointment without good causes determined by the BIC. The notice of penalty should be mailed to the property owner and posted on the building.	Building Inspection Commission	Recommendation Implemented	The SF Building Code Chapter 1A provides a mechanism for DBI to bill the property owner through assessment of costs for additional time taken to secure property access.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.15. The Chief Housing Inspector should direct HIS personnel to complete the "no shows" information on the Excel spreadsheet that tracks results of their Focused Code enforcement for all the routine inspections conducted under Focused Code Enforcement and direct that all "no shows" are followed up on within two weeks.	DBI Chief Housing Inspector	Recommendation Implemented	No shows are already captured within the current tracking system, and noted on the Complaint Data Sheet.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.16. The Chief Housing Inspector should adopt a policy that all "no shows" must be followed up on within two weeks by researching the property owner's correct address or phone number and then, contacting the property owner for a scheduled routine inspection. This policy should be communicated to all inspectors in writing.	DBI Chief Housing Inspector	Will Not Be Implemented - Not Warranted	DBI HIS already has a policy that requires follow-up on cases (on average within 30 days) where DBI has not obtained access to properties for purposes of inspection. DBI HIS does take additional steps to schedule subsequent inspections with property owners. The Department utilizes available property information to accomplish this.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.17. The Chief Housing Inspector should require that support staff verify contact information for the property owners and resend the inspection packet to the new address within two weeks from when the inspection packet was returned to HIS.	DBI Chief Housing Inspector	Will Not Be Implemented: Not Reasonable	DBI has no source to update this information if the Tax Assessor information is in error or not up to date. The San Francisco Building Code Section 102A mandates that the source be the last annual tax roll.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.18. The Chief Housing Inspector should direct that the inspection cover letter indicate how non-English speaking property owners can request inspection packets in languages other than English and that the inspection packet is made available in Chinese and Spanish.	DBI Chief Housing Inspector	Will Be Implemented in the Future	DBI has already started the process of updating documents, and these are available online with specific documents available in Spanish and Chinese. Mailed out packets will contain a notation of available translated copies upon request. Staff also offers bilingual assistance, upon request.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.19. The Chief Housing Inspector should direct that the inspection packet cover letter be rewritten so that all vital information is available at the top of the letter and the language changed so that it is easier to understand.	DBI Chief Housing Inspector	Recommendation Implemented	The current inspection request package is a comprehensive product of direct customer feedback, and contains required language per Chapter 3 of the San Francisco Housing Code, and per advice from the City Attorney. DBI will continue to update this package based upon code requirements and customer needs.

**Department of Building Inspection's Responses to 2015-2016 Civil Grand Jury Report**

September 19, 2016

<b>San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Recommendation</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.20. The Chief Housing Inspector should direct that the inspection packet cover letter be rewritten so that it explains that inspectors will be inspecting items on the Property Owner Maintenance List.	DBI Chief Housing Inspector	Will Be Implemented in the Future	The Property Owner Maintenance Checklist is not the list of the areas to be inspected. As the title indicates, this is informational material for all types of residential occupancies. The Checklist is in the current form because DBI customers have requested the Department consolidate all the information into one checklist. The areas subject to a site inspection are delineated within the content of the request letter, pursuant to the requirements of Chapter 3 of the San Francisco Housing Code and advice from the City Attorney. Refinements to the cover letter are expected as part of the Department's on-going efforts to update its materials.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.21. The Chief Housing Inspector should direct that the inspection packet cover letter be rewritten to include instructions on what the property owner needs to do with the appendage and carbon monoxide/smoke alarm affidavits.	DBI Chief Housing Inspector	Will Not be Implemented: Not Warranted	The Informational Packet has detailed self-contained information for each of the subjects, including owner responsibilities for appendage and carbon monoxide-smoke alarm affidavits.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.22. The Chief Housing Inspector should direct that the inspection packet cover letter be rewritten to include the information contained in the notices and ordinances. Notices and ordinances should be removed from the inspection packet.	DBI Chief Housing Inspector	Will Be Implemented in the Future	Refinements to cover letter will be made to coincide with future legislation.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.23. The DBI Director should ensure the replacement system for CTS includes functionality for inspectors to document inspection remotely.	DBI Director	Will Be Implemented in the Future	Remote access for all inspectors is an out of the box function of the new PPTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.24. The DBI Director should ensure the replacement system for CTS includes functionality to upload photos remotely.	DBI Director	Will Be Implemented in the Future	Photo attachment to a record is an out of the box function of the new PPTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.25. DBI MIS should make affidavits available online.	DBI Management Information Services	Recommendation Implemented	Blank affidavits are available online through the website, and in the Maintenance Packet provided to the public.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.26. The DBI Director should ensure the replacement system for CTS includes functionality for inspectors to print NOV's in the field and that inspectors are supplied with portable printers for this purpose.	DBI Director	Requires Further Analysis	DBI MIS is looking into this issue and will research the technical feasibility of this process to be applied department-wide.

**Department of Building Inspection's Responses to 2015-2016 Civil Grand Jury Report**  
September 19, 2016

<b>San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Recommendation</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.27. The DBI Director should ensure the replacement system for CTS can be integrated with other computer systems within DBI and other City departments.	DBI Director	Requires Further Analysis	CTS is already integrated with computer systems within DBI. DBI MIS will ensure that this remains the case for any new systems. DBI is already coordinating with SF Planning to integrate our database systems. DBI's systems currently provides access of its data to other city departments, i.e. Assessor, SF Planning, and Public Works. Integration with other city department systems will require citywide initiative and a coordinated effort.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.28. The DBI Director should ensure the replacement system for CTS includes functionality for tracking and reporting on types of violations and high fire risk building characteristics.	DBI Director	Will Be Implemented in the Future	DBI HIS has identified attributes to be captured at the Complaint Intake and Site Inspection phase as part of a future phase of the PPTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.29. (a) The Chief Housing Inspector should ask DBI MIS to create a standard report to track how long NOV's take to be corrected (similar to Open NOV's report we used) and modify this report to calculate the difference in days between when an NOV is issued and the date the NOV is corrected and then use this report to measure the time it takes for property owners to correct NOV's. (b) The Chief Housing Inspector should report how long NOV's take to be abated, in a format similar to Table I-3, to the BIC on a monthly basis.F40	DBI Chief Housing Inspector	(a) Recommendation Implemented (b) Requires Further Analysis	(a) DBI HIS currently tracks open NOV's through CTS and thus, already can see whether a violation is open or closed. DBI is working with DataSF to provide NOV data to the portal, which contains the information listed and requested in this recommendation. This data information may be made available online in 2017. (b) DBI HIS has identified this requirement in a future phase of the PPTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.30. The Chief Housing Inspector should actively monitor cases using the Open NOV's report to ensure that less than five percent of NOV's take no more than one year to abate.	DBI Chief Housing Inspector	Will Not Be Implemented: Not Reasonable	The Deputy Director for Inspection Services, and the Chief Housing Inspector already actively monitors all open NOV's, and takes pro-active steps to work with owners and/or with the City Attorney to bring open cases to closure through the stipulated code enforcement process. DBI is committed to following the abatement process set forth in Chapter 1A of the SF Building Code in a timely fashion and in using all available code enforcement tools efficiently and expeditiously.

**Department of Building Inspection's Responses to 2015-2016 Civil Grand Jury Report**  
September 19, 2016

<b>San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Recommendation</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.31. The Chief Housing Inspector should develop guidelines for inspectors to use when granting additional time for repairs or abatement. The guidelines should be based on the average additional time it takes for the top 20 types of violation under each of the following common scenarios, including: (1) filing for and obtaining an over-the-counter permit; (2) vetting and hiring a contractor; and, (3) performing the work necessary to correct the violation.	DBI Chief Housing Inspector	Will Not Be Implemented: Not Warranted	The standard is set by Section 201A.3.3 of the San Francisco Building Code. In addition, not all DBI HIS code violations require building, plumbing or electrical permits to abate or the hiring of a contract to abate.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.32. The Chief Housing Inspector should ensure a new form letter is drafted to provide property owners the date of the next reinspection and warn them that violations must be abated by that date. Inspectors can then fill in the time and date of the reinspection and hand it to the property owner at the inspection.	DBI Chief Housing Inspector	Recommendation Implemented	DBI already documents the abatement process after the initial reinspection, and transmits written warnings to the property owner for failure to comply with a Notice of Violation. If the property owner fails to comply with a Notice of Violation at the time of the initial reinspection, all subsequent abatement actions including reinspections, are highlighted on the DBI Complaint Data Sheet which is available online, and the case may be sent to a Director's Hearing and to the City Attorney for litigation, as stipulated in the existing code enforcement process.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.33. The Chief Housing Inspector should create a culture where staff and management meetings are held as scheduled and not canceled unless there is an emergency.	DBI Chief Housing Inspector	Recommendation Implemented	DBI HIS already schedules multiple staff meetings to discuss performance measures and code enforcement cases, which include division wide, and team meetings. These are already scheduled on a regular basis and are highly productive. The Division will continue to hold the staff meetings as indicated above. In addition, division staff meetings will be scheduled so that they do not conflict with other DBI calendar items to the extent possible.

**Department of Building Inspection's Responses to 2015-2016 Civil Grand Jury Report**  
September 19, 2016

<b>San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Recommendation</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.34. The Chief Housing Inspector should adopt a definition of success that includes inspecting all R-2s at least every five years and ensuring all violations are corrected within a "reasonable period of time." The Chief Housing Inspector should measure a "reasonable period of time" for correcting violations by first using the Open NOV's report to measure how many days have elapsed since each NOV was issued. Next, the Chief Housing Inspector should compare the number of days that an NOV has stayed open against specific timeframes. We recommend two months; six months; 12 months; and, 18 months. (Two months (60 days) is an important timeframe because it is the earliest that an NOV can be referred to a DH.) Once an NOV goes uncorrected for one day after each of these timeframes, the NOV can easily be flagged for a closer review of the facts and circumstances and steps taken to encourage the NOV be corrected.	DBI Chief Housing Inspector	Recommendation Implemented	DBI HIS mandates and performance measures are set by the San Francisco Housing and Building Codes, and by DBI's Strategic Plan. DBI HIS already performs what is recommended, and utilizes effective tools such as its "Standard Report" to evaluate case abatement results and the potential need to redeploy or expedite resources as violation patterns and necessity dictate.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.35. The Chief Housing Inspector should measure the time it takes for an open NOV to reach a Director's Hearing. We recommend using the Open NOV spreadsheet that DBI MIS created for us. Incorporating a column that calculates the days between the NOV date and the DH date, HIS can determine how many days it takes an open NOV to be heard at a Director's Hearing.	DBI Chief Housing Inspector	Recommendation Implemented	DBI HIS already tracks the time frames accrued before an open code enforcement case is referred to a Director's Hearing within CTS. This tool is available as a screen query or written report that the Inspector's Supervisor utilizes to determine if the case is ripe for referral or other enforcement action based on criteria established in Chapter 1A of the SF Building Code. DBI HIS is already utilizing effective tools to address this issue, and further enhancements will be provided through PPTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.36. The Chief Housing Inspector should adopt an objective standard for inspectors to use in determining when a case should be referred to a Director's Hearing.	DBI Chief Housing Inspector	Will Not Be Implemented: Not Warranted	This standard is set by Section 201A.3.3 of the SF Building Code. The assigned Inspector has to document whether substantial progress has commenced on a case -by-case basis in keeping with the goals of DBI's Strategic Plan. DBI is tracking the objective standard through the timeliness of Inspector enforcement activities related to the abatement process set forth by Chapter 1A of the SF Building Code.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.37. The Chief Housing Inspector should require that senior inspectors follow-up with inspectors when there have been three reinspections on an open NOV.	DBI Chief Housing Inspector	Recommendation Implemented	Inspectors are supervised for quality control on open cases through DBI HIS' standard reporting process.

**Department of Building Inspection's Responses to 2015-2016 Civil Grand Jury Report**

September 19, 2016

<b>San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Recommendation</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.38. The DBI Director should ensure when CTS is replaced by another system that it includes functionality to help automate the Director's Hearing case preparation and digital transfer of case files.	DBI Director	Requires Further Analysis	Improvements to automating scheduling and supervisory review and approval of referral of properties to Director's Hearings have been identified as a requirement in a future phase of the PPTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.39. (a) The Chief Housing Inspector should determine what is required for HIS to reinstate the FTB program and then ensure that all necessary steps for making the FTB program part of the HIS code enforcement process are taken. (b) The BIC should approve that HIS use the FTB program as part of its code enforcement process. (c) The Chief Housing Inspector should determine what is required for administrative penalties to be available at the HIS administrative hearing and then ensure that all necessary steps for making this possible as part of the HIS code enforcement process are taken. (d) The BIC should approve adding the legal requirements to the HIS administrative hearing so that administrative penalties can be awarded.	DBI Chief Housing Inspector and Building Inspection Commission	(a-b) Recommendation Implemented (c-d) Requires Further Analysis	(a-b) DBI HIS' use of the FTB tool has not been terminated and it is currently being used by the division in its code enforcement process. However, this is not as effective a code enforcement tool as it once was because the State Franchise Tax Board stopped auditing the property owners that receive a Notice of Noncompliance. Their action is beyond DBI's control. (c-d) The imposition of administrative penalties would require new legislation adopted by the Board of Supervisors.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.40. The Director of DBI should request that the Controller's Office conduct a study to determine adequate staffing levels for HIS.	DBI Director	Will Not be Implemented- Not Warranted	Since 2012, the department has undertaken an aggressive hiring plan to increase department staffing levels that were reduced during the downturn. Housing Inspector staffing has increased from 13 to 21. The department continues to review staffing needs and develop recruitment plans to meet operational needs including hiring temporary staff and developing a Housing Inspector list.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.41. DBI MIS should redesign the DBI website so that information on routine inspections is easier to find from the DBI homepage.	DBI Management Information Services	Will Be Implemented in the Future	DBI is continually updating content pages when needed. The HIS splash page and its sub-pages are part of the department's website redesign plans as identified in DBI's Strategic Plan in 2019.



**Department of Building Inspection's Responses to 2015-2016 Civil Grand Jury Report**  
September 19, 2016

<b>San Francisco Building and Fire Safety Inspection: A Tale of Two Departments: Department of Building Inspection and San Francisco Fire Department</b>					
<b>CGJ Year</b>	<b>Report Title</b>	<b>Recommendation</b>	<b>Responding Party</b>	<b>2016 Action Plan</b>	<b>2016 Response Text</b>
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.42. DBI MIS should revise the information on routine inspections on the DBI website so that: the property owners and the general public understand the process, including how often routine inspections take place, what is inspected, what happens when violations are found, the time frame for correcting violations and the costs associated with code enforcement.	DBI Management Information Services	Will Be Implemented in the Future	DBI has already created a Routine Inspection informative page, along with providing a direct link from the HIS splash page. Website information is continually updated when changes are needed.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.43. DBI MIS should change the names on the links for R-2 violations so inspection records can be found more easily on the DBI website.	DBI Management Information Services	Will Not Be Implemented: Not Warranted	Acronyms and/or abbreviations used are a result of system design and configuration. Thus, it is not easily changeable. DBI MIS is focused on replacing current system with PPTS.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.I.44. The DBI Director should ensure the replacement system for CTS can upload NOVs to the DBI website.	DBI Director	Requires Further Analysis	DBI MIS is looking into this issue and will require further analysis on how to incorporate this requirement into the future PPTS platform.
2015-2016	Fire Safety Inspections In San Francisco A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department	R.III.1. The Building Inspection Commission and Fire Commission should require a task force be formed to study DBI and SFFD inspection and code enforcement processes and make recommendations on how they can coordinate their efforts.	Building Inspection Commission and Fire Commission	Recommendation Implemented	DBI & SFFD have made strides in coordinating code enforcement and outreach on fire safety made possible by the Code Enforcement Process Standardization ordinance and Fire Safety Task Force resolution. The Fire Safety Task Force met over a six-month period and developed findings and recommendations, which were provided to the Board of Supervisors for their review and legislative consideration and passage.

JOANNE HAYES-WHITE  
CHIEF OF DEPARTMENT



EDWIN M. LEE  
MAYOR

**SAN FRANCISCO FIRE DEPARTMENT**  
CITY AND COUNTY OF SAN FRANCISCO

September 19, 2016

The Honorable John K. Stewart  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

RE: Civil Grand Jury Report – Fire Safety Inspections in San Francisco - A Tale of Two Departments: Department of Building Inspection & San Francisco Fire Department

The Honorable Judge Stewart:

Thank you for the opportunity to provide a response to the Civil Grand Jury's findings and recommendations to the 2016 Civil Grand Jury report, entitled *Fire Safety Inspections in San Francisco*.

The San Francisco Fire Department (SFFD) is continuously seeking ways to improve upon existing processes and exploring ways of adopting new best practices to serve the citizens of San Francisco and ensure their fire safety.

It is important to note a missed opportunity in the collection of information for this report. According to Ms. Alison Scott, Foreperson, Pro Tem, the Civil Grand Jury "ran out of time" and therefore was unable to interview the Fire Marshal and the Chief of Department for this report. This would have allowed the Civil Grand Jury greater opportunity to be briefed on historical practices with regard to fire safety inspections, as well as projects underway that will continue to improve and optimize our current practices. As Chief of Department, I have always been afforded the opportunity to provide context and overall perspective to all previous Civil Grand Jury reports.

There are many new and evolved fire safety inspection processes and program improvements that have been defined, developed and are being implemented. In fact, these same programs align with many of the recommendations set forth by the Civil Grand Jury in their 2016 Report as you will see in the Department's matrix responding to the Findings and Recommendations of the Civil Grand Jury.

When evaluating the recommendations of the Civil Grand Jury, it is important to understand that the Department of Building Inspection (DBI) and the Fire Department's business model are very distinct from the SFFD Fire Suppression's Truck and Engine Companies. DBI has staffing dedicated to R2 inspections, whereas the SFFD

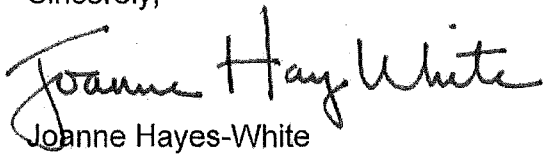
Fire Suppression Truck and Engine Companies are first and foremost tasked with first responder duties.

In addition to the enclosed matrix and corresponding detailed commentary on process improvements, the Department believes that some of the broader findings outlined in the Grand Jury report must also be addressed so as to successfully respond to challenges being faced by the City and County of San Francisco. In particular, the Grand Jury's assessment that growth and overcrowding are having unintended consequences and an impact on fire safety.

The other foundational finding of the Civil Grand Jury that extends beyond the Fire and Building Department is the current use of IT Systems. The SFFD recognizes the need for stronger communication tools and a framework to illustrate how collaboration between SFFD and DBI can enable an increased level of transparency and an overall improved IT system. SFFD is working diligently with DBI and the Department of Technology to achieve this goal.

Thank you for the opportunity to respond to the Civil Grand Jury report. Should you have any questions, please feel free to contact me at 415-558-3401.

Sincerely,

A handwritten signature in black ink that reads "Joanne Hayes-White". The signature is written in a cursive style with a large initial "J".

Joanne Hayes-White  
Chief of Department

Enclosures

cc: Clerk of the Board, Attn: Government Audit and Oversight Committee

2015-16 Civil Grand Jury  
 Fire Safety Inspections in San Francisco, June 2016  
 SFFD Response

CGJ Year	Report Title	Findings	Responding Dept.	2016 Responses (Agree/Disagree) Use the drop down menu	2016 Response Text
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.1.</b> Because station house Companies do not inspect all the R-2s in San Francisco every twelve months as mandated by Code, San Franciscans may be exposed to unnecessary risks.	SFFD Deputy Chief of Operations	disagree with it, partially (explanation in next column)	The Department works with Station House Companies to minimize the risk related to inspections of R-2s.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.2.</b> Station house Companies cannot always get into R-2s to inspect them because Company Captains rarely schedule R-2 inspections in advance.	Deputy Chief of Operations	disagree with it, partially (explanation in next column)	Generally the only reason R-2's have not been completed is because crews cannot gain access to the building. On some occasions the contact information is also obsolete.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.3.</b> Contact information is not included on the Inspection Worksheets that Company Captains take with them to document their R-2 inspections in advance.	SFFD MIS	agree with finding	This information is now available on the R-2 inspection form.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.4.</b> R-2 inspections are not conducted on the weekends.	Deputy Chief of Operations	agree with finding	We are looking into possibly changing that practice. Normally on weekends, the Department holds larger scale drills and inspect hydrants. Also, there are many special events that occur in the City on the weekends that we are responsible for covering.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.5.</b> Companies with the ten largest R-2 lists have most of the largest backlogs because R-2 inspections are disproportionately distributed among the Companies and not sufficiently redistributed to nearby Companies with less R-2s to inspect.	Deputy Chief of Operations	disagree with it, partially (explanation in next column)	The Battalion Chiefs monitor Station House Companies' workload, particularly Companies with large R-2 lists. At the time of this writing companies should be able to complete all R-2's assigned if access to the buildings is possible and the contact information is up to date.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.6.</b> Company Captains prioritize which R-2s they will inspect based on location of the R-2 rather than on the deadline for each inspection. As a result, some R-2s are not inspected by their deadline.	Deputy Chief of Operations	disagree with it, wholly (explanation in next column)	Company Officers are directed to complete all R-2's assigned by deadline. As described above, access to all buildings may not be possible by the deadline. The Inspection compliance rate was 94% in 2015.

2015-16 Civil Grand Jury  
 Fire Safety Inspections in San Francisco, June 2016  
 SFFD Response

2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.7.</b> Some Battalion Chiefs' follow-up on Company inspection backlogs is insufficient because it does not hold the Company accountable for the backlog.	Deputy Chief of Operations	agree with finding	Battalion Chiefs follow up with Station House Companies regarding inspection backlogs on a regular basis.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.8.</b> Because firefighters' primary motivation for inspecting R-2s is to develop building awareness, they may not sufficiently give equal importance to code compliance when conducting R-2 inspections.	Deputy Chief of Operations	disagree with it, partially (explanation in next column)	Firefighters' consider both factors with equal importance.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.9.</b> Many Company Captains seem to know little about Fire Prevention or Code Enforcement. Since firefighters interact with the public, this is a missed opportunity to educate the public about the inspection and enforcement process.	SFFD Deputy Chief of Operations	disagree with it, partially (explanation in next column)	All Company Officers are trained in Fire Prevention and Code Enforcement, as well as identification of code violations. In addition, the Bureau of Fire Prevention is developing a module to further enhance Company Officers' understanding of Fire Code and Fire Prevention.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.10.</b> A significant number of fire alarm, blocked exits and sprinkler complaints took more than two months to be resolved.	The Fire Marshall	disagree with it, partially (explanation in next column)	The standard for complaint resolution is 30 to 90 days. 72% of all fire alarm complaints were resolved within two months; 83% of all blocked exit complaints were resolved within two months; 52% of all sprinkler complaints were resolved within two months. The Department is exploring opportunities to improve the rate at which complaints are resolved, including conducting weekend inspections. In addition, the Department will develop performance benchmarks for timely resolution of complaints. Currently, the Department evaluates each open case and unique circumstances that may cause a delay in resolution.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.11.</b> Most fire alarm, blocked exits and sprinkler violations took longer to correct than the timeframes district inspectors stated for correction.	The Fire Marshall	disagree with it, partially (explanation in next column)	The BFP is developing process improvements to reduce the timeframes for inspection corrections. While one can postulate about what these are, in the estimation of BFP, the amended processes set forth earlier in this document will address this matter moving forward.

2015-16 Civil Grand Jury  
 Fire Safety Inspections in San Francisco, June 2016  
 SFFD Response

2015-2016	Fire Safety Inspections in San Francisco	<b>F.11.12.</b> District inspectors' workload was too heavy for them to investigate all R-2 complaints in a timely manner.	The Fire Marshall	disagree with it, wholly (explanation in next column)	It has been a long standing BFP policy to prioritize fire complaints. It is the duty of the Inspector to notify his/her officer if the workload is "too heavy" to address fire complaints in a timely manner. Additionally, it is the duty of the supervising officer to monitor the progress of the Inspectors in their section. If it is determined that the volume is too high to address the fire complaints in an appropriate timeframe, the supervising officer is responsible for bringing this to the attention of the Captain of Administration. The Captain would then load balance and/or seek additional resources to respond to fire complaints.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.11.13.</b> District inspectors prioritized reviewing construction projects and phone calls over inspecting R-2 complaints. As a result, some R-2 complaints and violations were not corrected in a timely manner.	The Fire Marshall	disagree with it, wholly (explanation in next column)	It has been a long standing BFP policy to prioritize fire complaints. The Department follows existing protocol to ensure that complaints are addressed in a timely manner. Additionally, it is the duty of the supervising officer to monitor the progress of the Inspectors in their section. If it is determined that the volume is too high to address the fire complaints in an appropriate timeframe, the supervising officer is responsible for bringing this to the attention of the Captain of Administration. The Captain would then load balance and/or seek additional resources to respond to fire complaints. The SFFD, Bureau of Fire Prevention has established a dedicated Fire Complaints section which will consolidate all incoming complaints (vs. the former model whereby the complaints were taken in, managed and addressed on a district by district basis). This will eliminate the need to balance fire complaint inspections with construction and referral inspections.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.11.14.</b> Because some district inspectors did not document inspections and code enforcement in sufficient detail, follow up on violations was hampered.	The Fire Marshall	agree with finding	This will be addressed through the Bureau's Inbound Training Program: Fire Complaint Process, Inter-departmental referral Process and Fire Complaint Tracking and Life Cycle Management.

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 Fire Safety Inspections in San Francisco, June 2016  
 SFFD Response

2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.15.</b> Some Company Captains do not document inspections in enough detail for district inspectors to easily identify the violation and conduct code enforcement.	SFFD Deputy Chief of Operations	agree with finding	Company Officers will be instructed to provide more comprehensive responses via Module, which is being developed.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.16.</b> After the Inspection Worksheet was made longer in July 2015, some Company Captains document too many items that are not violations.	SFFD Deputy Chief of Operations	agree with finding	The Fire Marshal is developing a training module for all Chief and Company Officers, so they are clear on what is expected of them when performing inspections.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.17.</b> Some Company Captains do not print the Inspection Worksheet and bring it to the R-2 inspection. Without having the Inspection Worksheet they may miss something or be inclined to document less. For example, the Inspection Worksheet states that "Company Officer shall obtain and update the responsible party information."	SFFD Deputy Chief of Operations	agree with finding	BFP is developing a training module to address improvements in the Inspection process. The training module is expected to be completed January, 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.18.</b> BFP does not have effective code enforcement tools, such as, an administrative hearing.	The Fire Marshall	disagree with it, wholly (explanation in next column)	The San Francisco Fire Code has provisions for Notices of Violation, Administrative Citations, and Administrative Hearings. This report outlines a framework which details the fire complaint process, lifecycle management, which all Inspectors shall follow. Please refer to I. Code Enforcement Process; Complaint Process Flowchart.

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2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.19.</b> Accelerated Code Enforcement is rarely used.	The Fire Marshall	agree with finding	ACE has been integrated into the new closed loop fire complaint process.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.II.20.</b> The SFFD website does not include enough information about the annual inspection and code enforcement processes for property owners and the public to understand them. Being better informed about the process may result in better compliance by property owners and increase the publics' confidence in SFFD enforcement efforts.	SFFD Management Information Systems	agree with finding	Information about the annual inspection and code enforcement processes will be posted in the SFFD website by March 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.11.21.</b> Inspection records are only available in person at the Bureau of Fire Prevention after making an appointment.	Chief of SFFD	agree with finding	The Department is currently working on IT enhancements to allow the public access fire records online, in conjunction with Department of Building Inspection and City Planning.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.11.22.</b> Although instructions for reviewing inspection records is available on the SFFD website, the phone number for making appointment is not included with the instructions.	SFFD Management Information Systems	agree with finding	The SFFD website includes a link to all relevant SFFD numbers. We will also add the correct number to call to this page.
2015-2016	Fire Safety Inspections in San Francisco	<b>F.11.23.</b> Safety concerns may be reported online or by calling the BFP. Although instructions for reporting a safety concern are available on the SFFD website, the BFP phone number is not included on the same page as the instructions.	SFFD Management Information Systems	agree with finding	The SFFD website includes a link to all relevant SFFD numbers. We will also add the correct number to call to this page.



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CGJ Year	Report Title	Recommendations	Responding Dept.	2016 Responses (implementation) Use the drop down menu	2016 Response Text
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.1.</b> The Deputy Chief of Operations should require Battalion Chiefs to closely monitor Company R-2 inspection lists to ensure that every R-2 in San Francisco is inspected by its deadline.	SFFD Deputy Chief of Operations	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	The Department will require Battalion Chiefs to monitor R-2 lists more closely. This change will be implemented in January 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.2.</b> The Deputy Chief of Operations should require that Company Captains make inspection appointments in advance, whenever they have the property owner's phone number, to ensure that Companies get into all R-2s. The appointments should have a three hour window.	SFFD Deputy Chief of Operations	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	The Department disagrees with the 3 hour appointment, however agrees on calling owners to set up an arrangement to meet a responsible party. This change will be implemented in January 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.3.</b> SFFD MIS should ensure property owner contact information is included on the Inspection Worksheets.	SFFD Management Information Systems	The recommendation has been implemented (summary of how it was implemented in	This information is now available on the R-2 inspection form.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.4.</b> The Deputy Chief of Operations should require Companies to inspect R-2s on the weekend if that Company is going to have a backlog during a particular month.	SFFD Deputy Chief of Operations	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	This will be implemented in January 2017 as a pilot program, for which the Department has sufficient existing budgetary authority in the FY 2016-17 and FY 2017-18 budget.

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2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.5.</b> The Deputy Chief of Operations should redistribute R-2 inspection from Companies that have a backlog to nearby Companies that have fewer R-2 inspections so that the number of R-2 inspections is more evenly distributed among neighboring station houses and are conducted more timely.	SFFD Deputy Chief of Operations	The recommendation will not be implemented because it is not warranted or reasonable (explanation in next column)	The Department disagrees on this recommendation. Companies should stay in their first –in district as much as possible, otherwise it is a risk to residents in their first alarm area. The FY 2016-17 and FY 2017-18 budget provides for six additional Fire Prevention positions—four inspectors, one investigator, one captain, and one fire protection engineer—to improve fire safety outreach and education. Working closely with the Department of Building Inspection and other City and community partners, these positions proactively address fire safety concerns and complaints, as well as distribution concerns related to workloads. This is to be implemented in January 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.6.</b> The Deputy Chief of Operations should instruct Company Captains to give priority to R-2 inspections which have exceeded or are approaching their deadlines.	SFFD Deputy Chief of Operations	The recommendation has been implemented (summary of how it was implemented in next column)	This has been the practice and will continue.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.7.</b> Battalion Chiefs should review progress on their Companies' R-2 lists at least once a month, and if they find a Company has not inspected all the R-2s on their list, hold that Company accountable by requiring that they inspect all the late R-2s by the end of the next month.	SFFD Deputy Chief of Operations	The recommendation has been implemented (summary of how it was implemented in next column)	Battalion Chiefs currently review progress on Station House Companies' R-2 lists monthly. Should a Company not inspect all the R-2s on their list, the Battalion Chief requires that the Company inspect all the late R-2s by the end of the following month, as has been the Department's practice.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.8.</b> The Deputy Chief of Operations should ensure that inspection training for firefighters includes stressing the two reasons for conducting R-2 inspections—to ensure code compliance and gain building awareness—are equally important.	SFFD Deputy Chief of Operations	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	A training module is being developed by the Fire Marshal and will be implemented in January 2017.

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2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.9.</b> The Deputy Chief of Operations should ensure that all firefighters receive training on the R-2 inspections process that includes a detailed module on the Bureau of Fire Prevention code enforcement process which starts with when a BFP inspector receives a complaint from a Company Captain to an NOV being issued and any additional steps. The training should occur after BFP implements the new code enforcement process. Knowing more about BFP will help firefighters better understand their role in ensuring code compliance.	SFFD Deputy Chief of Operations	The recommendation has been implemented (summary of how it was implemented in next column)	Officers have been trained on how to conduct R-2's. Their knowledge will be enhanced by new a training module being developed by the Fire Marshal. Firefighters will also be required to take the new R2 training module. This will be implemented in January 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.10.</b> The Fire Marshall should require that complaint response time and code enforcement timeframes be more closely monitored so that resolution time is shortened.	The Fire Marshall	The recommendation has been implemented (summary of how it was implemented in next column)	The Framework has been developed (Fire Complaint Process and Fire Complaints Section). The Lieutenant will be responsible for submitting a bi-monthly report on the status of Fire Complaints. Please refer to: I. Code Enforcement Process; Complaint Process Flowchart; II Code Enforcement - Staffing Model
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.11.</b> The Fire Marshall should require that code enforcement for NOV's be more closely monitored so that NOV's are corrected more quickly.	The Fire Marshall	The recommendation has been implemented (summary of how it was implemented in next column)	Fire Complaints Section has been created, please refer to I. Code Enforcement Process. Complaint process is being consolidated under a separate Fire Complaint Section. The team's, (one Lieutenant and six Inspectors), primary responsibility is to respond to/process fire complaints. The Lieutenant will be responsible for submitting a bi-monthly report on the status of Fire Complaints.

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2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.12.</b> The Fire Marshall should require that BFP inspectors (that work on R-2 complaints) have reasonable workloads so they can ensure timely correction of all complaints and violations.	The Fire Marshall	The recommendation has been implemented (summary of how it was implemented in next column)	Fire Complaints Section has been created, please refer to I. Code Enforcement Process. Complaint process is being consolidated under a separate Fire Complaint Section. The team staffed with one Lieutenant and six Inspectors is primarily responsible to respond to/process fire complaints. The Lieutenant will be responsible for submitting a bi-monthly report on the status of Fire Complaints.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.13.</b> The Fire Marshall should ensure that BFP inspectors (that work on R-2 complaints) not prioritize other work over R-2 complaints if that means that they cannot investigate all their R-2 complaints in a timely manner.	The Fire Marshall	The recommendation has been implemented (summary of how it was implemented in next column)	Fire Complaints Section has been created, please refer to I. Code Enforcement Process. Complaint process is being consolidated under a separate Fire Complaint Section. The team, (one Lieutenant and six Inspectors), primary responsibility is to respond to/process fire complaints. The Lieutenant will be responsible for submitting a bi-monthly report on the status of Fire Complaints.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.14.</b> The Fire Marshall should standardize inspection and code enforcement documentation done by BFP R-2 inspectors.	The Fire Marshall	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	A strategy and framework has been developed. Please refer to IV A. (Intra Departmental) and "Fire Complaint Tracking and Lifecycle Management". Anticipated completion time of 60 to 90 days.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.15.</b> The Deputy Chief of Operations should standardize inspection documentation done by Company Captains so that BFP inspectors can easily identify and follow-up on complaints.	SFFD Deputy Chief of Operations	The recommendation has been implemented (summary of how it was implemented in next column)	This has been the practice, however the current documentation and procedures will be enhanced by the Fire Marshal's training module.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.16.</b> The Deputy Chief of Operations should ensure that Company Captains are trained to identify violations and document only items that are violations.	SFFD Deputy Chief of Operations	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	Company Captains' knowledge will be enhanced by a new training module being developed by the Fire Marshal. This will be implemented in January 2017.

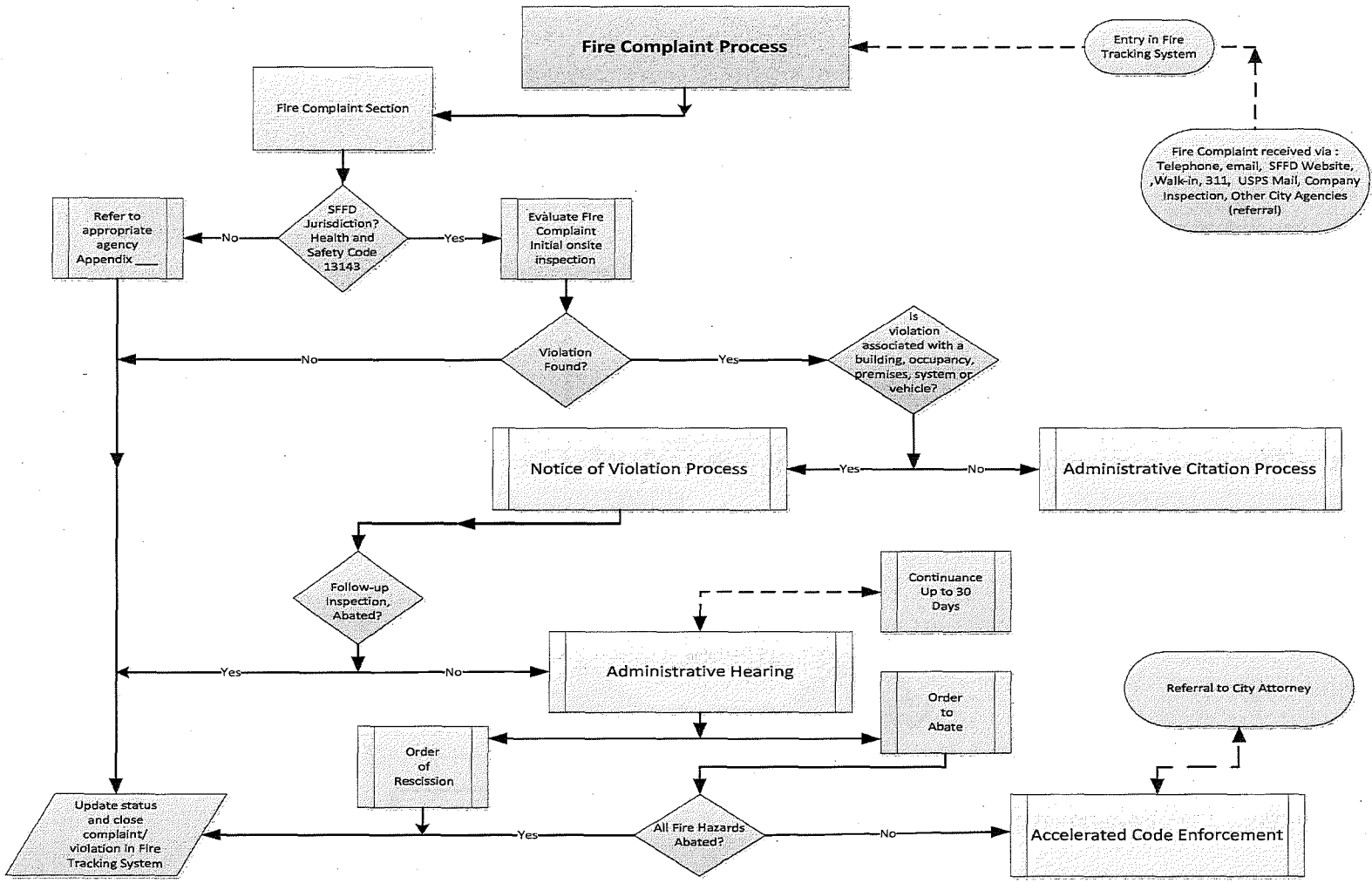
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2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.17.</b> Battalion Chiefs should encourage their Company Captains to bring the Inspection Worksheet to the inspection site and use it to document R-2 inspections.	SFFD Deputy Chief of Operations	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	Battalion Chiefs' knowledge will be enhanced by a new training module being developed by the Fire Marshall. This will be implemented in January 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.18.</b> The Fire Marshall should finalize the details of the new code enforcement process that is required by recently passed legislation so that it can be implemented within the next 60 days.	The Fire Marshall	The recommendation has been implemented (summary of how it was implemented in next column)	The Fire Marshal has developed a detailed framework for the new code enforcement process. The framework outlines the end to end process of enforcement and includes deadlines for each associated step/phase of a fire complaint.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.19.</b> The new BFP Captain that oversees R-2 Company complaints should refer appropriate cases to the CA every year.	The Fire Marshall	The recommendation has been implemented (summary of how it was implemented in next column)	Two documents demonstrate case referrals to CA every year: 1) I Code Enforcement Process; and 2) Complaint Process Flowchart. The Fire Complaints Section is managed by a Captain who serves as the Accelerated Code Enforcement officer. The Accelerated Code Enforcement (ACE) officer serves as liaison between the SFFD and the City Attorney's Office for issues regarding code enforcement and will refer cases to the City Attorney's Office as prescribed in I Code Enforcement Process.

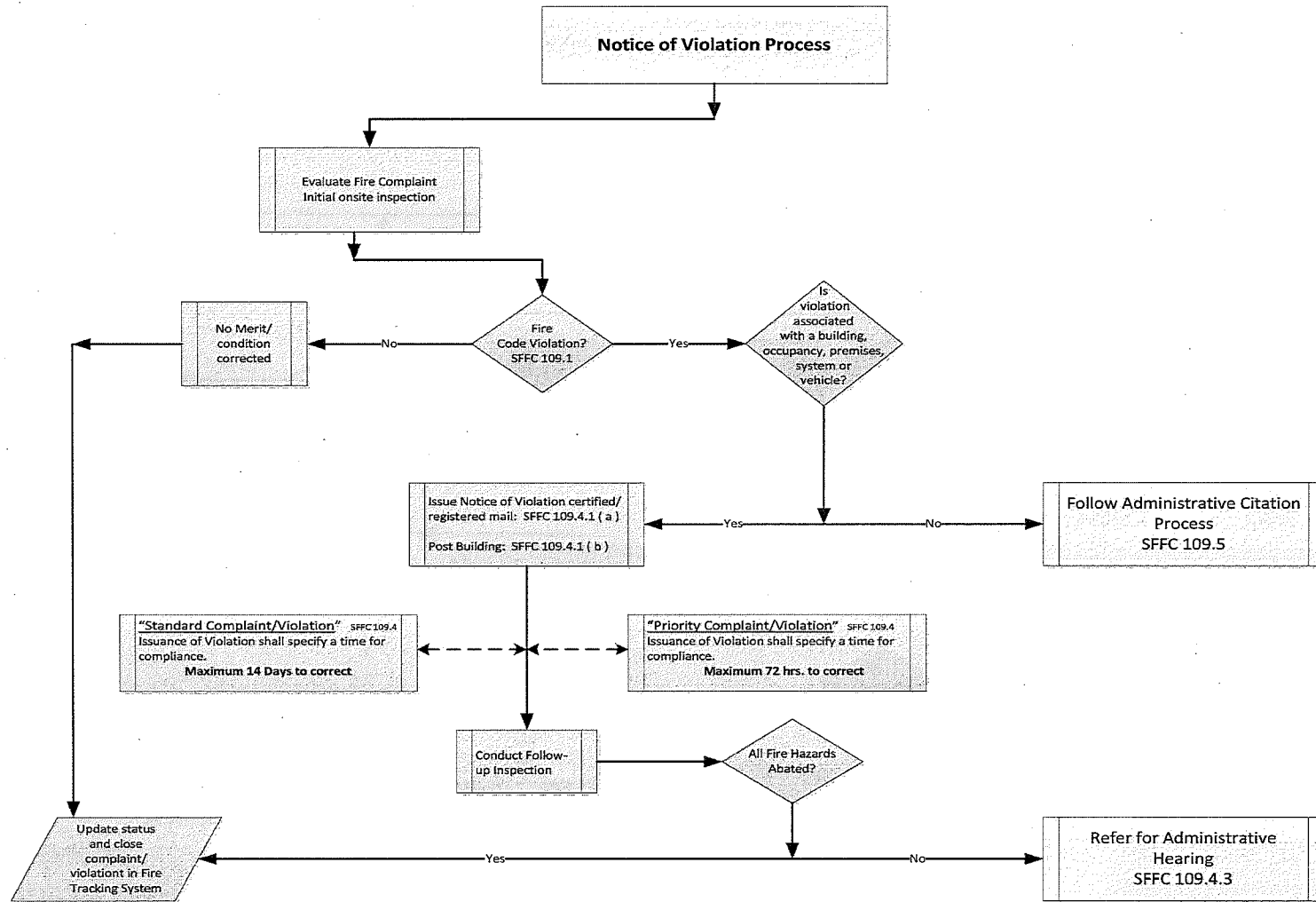
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2015-2016	Fire Safety Inspections in San Francisco	<b>R.II.20.</b> SFFD MIS should revise the SFFD website to include: (1) details of the R-2 inspection process, such as: (a) the kinds of buildings inspected; (b) who inspects the buildings; (c) how often R-2s are inspected; (d) the list of items inspected; and , (e) how the inspection will be conducted; and, (2) details of the code enforcement process, including: (a) what happens when a violation is discovered; (b) what happens if a violation goes uncorrected beyond the NOV deadline; and (c) any and all fees, fines, or penalties that may be imposed for uncorrected violations. This information should be either on the inspections page or Division of Fire Prevention and Investigation homepage.	SFFD Management Information Systems	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	Information about the annual inspection and code enforcement processes will be added to the SFFD website once the new R2 procedure has been adopted. These website improvements are anticipated to be available by March 2017 .
2015-2016	Fire Safety Inspections in San Francisco	<b>R.11.21.</b> The Chief of the Fire Department should instruct SFFD MIS to make inspection records available online for greater transparency.	Chief of SFFD	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	The Department is working with new technology to provide fire records for easy online access for the public. The first phase of this project should be completed in January 2017.
2015-2016	Fire Safety Inspections in San Francisco	<b>R.11.22.</b> SFFD MIS should put the BFP phone number for record inspection requests on the same SFFD webpage as the instructions for making an appointment.	SFFD Management Information Systems	The recommendation has not been, but will be, implemented in the future timeframe for implementation noted in next column)	We will also add the correct number to this page by January 2017
2015-2016	Fire Safety Inspections in San Francisco	<b>R.11.23.</b> SFFD MIS should put the BFP phone number for reporting a safety concern on the same SFFD webpage as the instructions for reporting a safety concern.	SFFD Management Information Systems	The recommendation has been implemented (summary of how it was implemented in next column)	We will also add the correct number to this page by January 2017.

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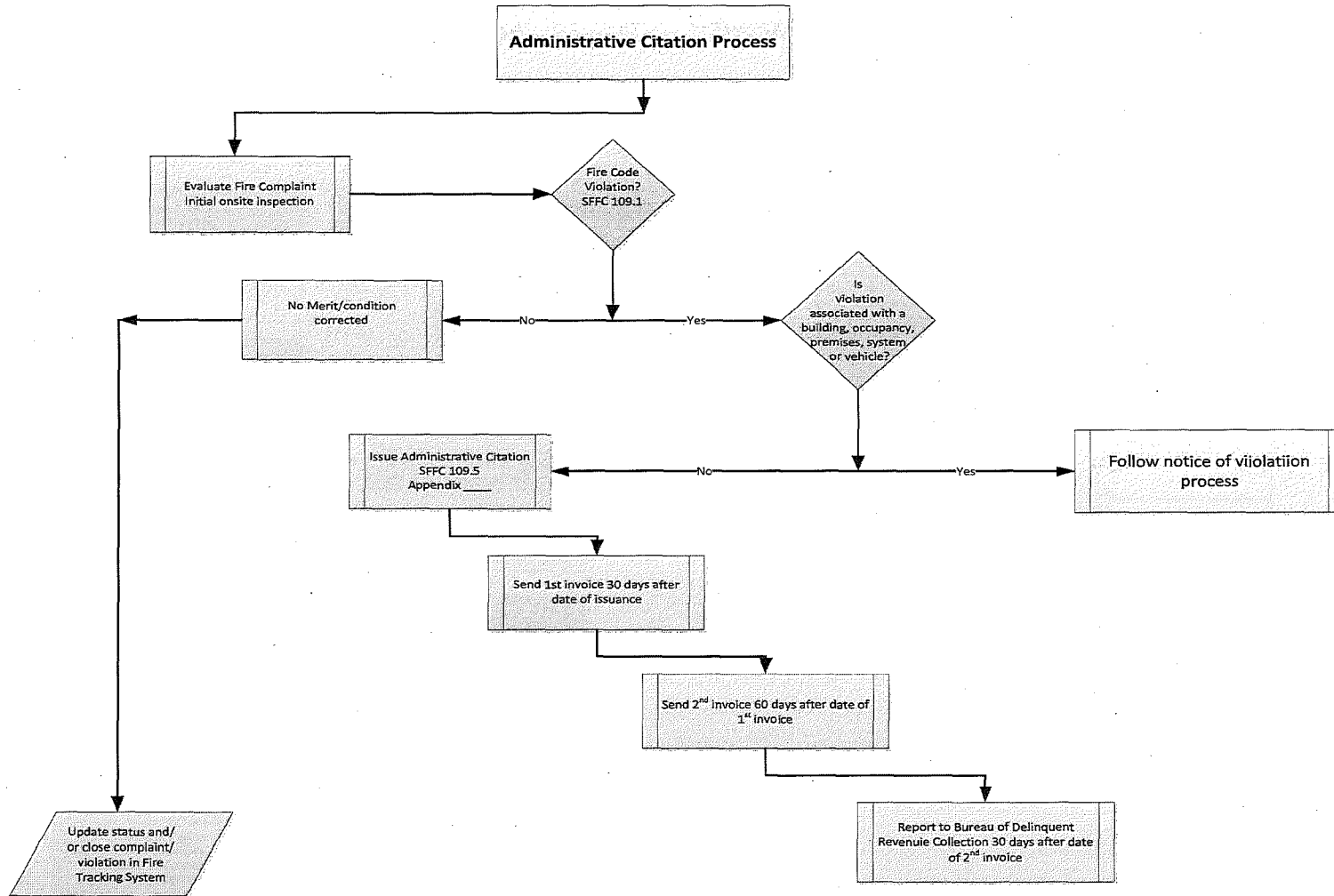


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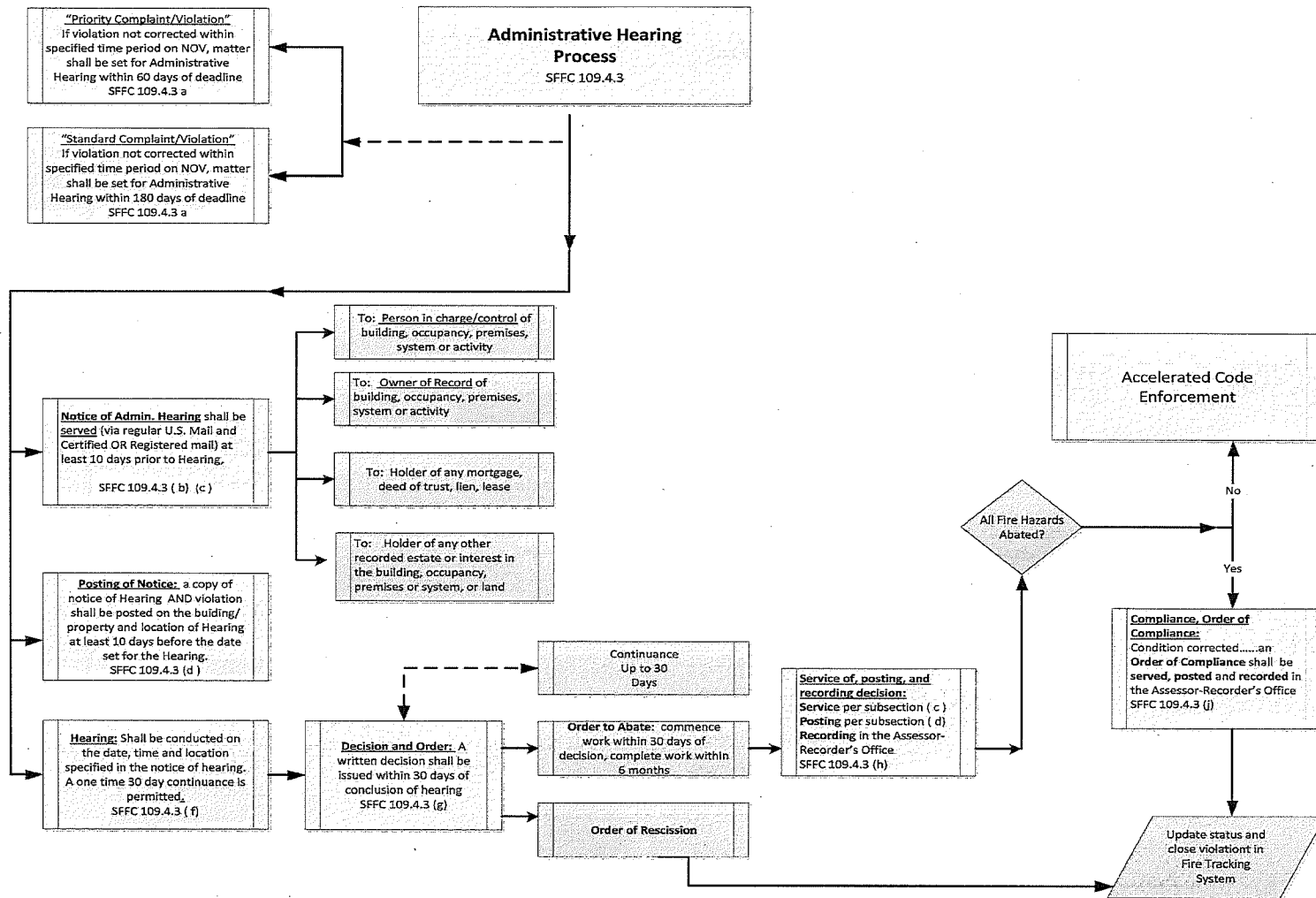




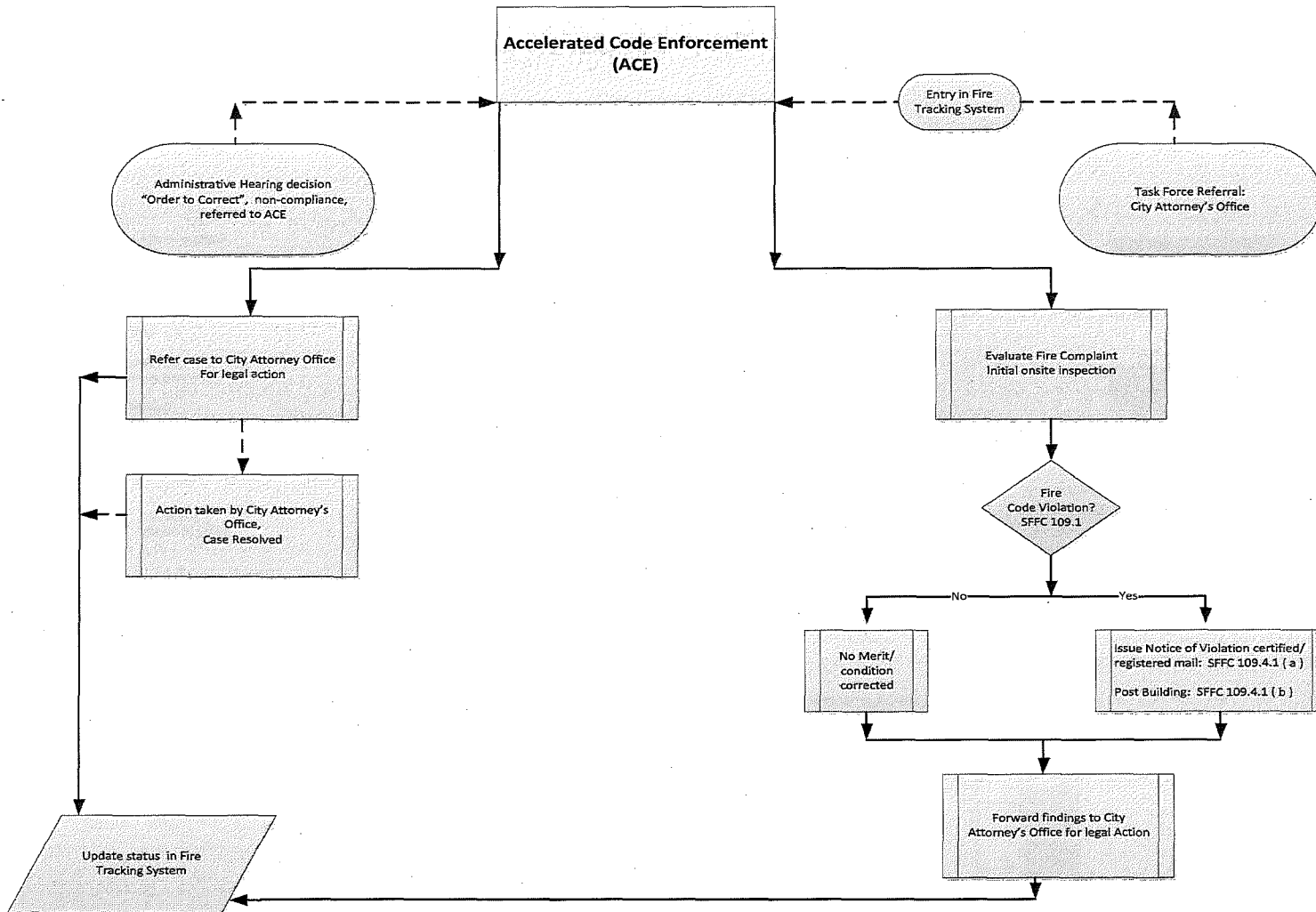
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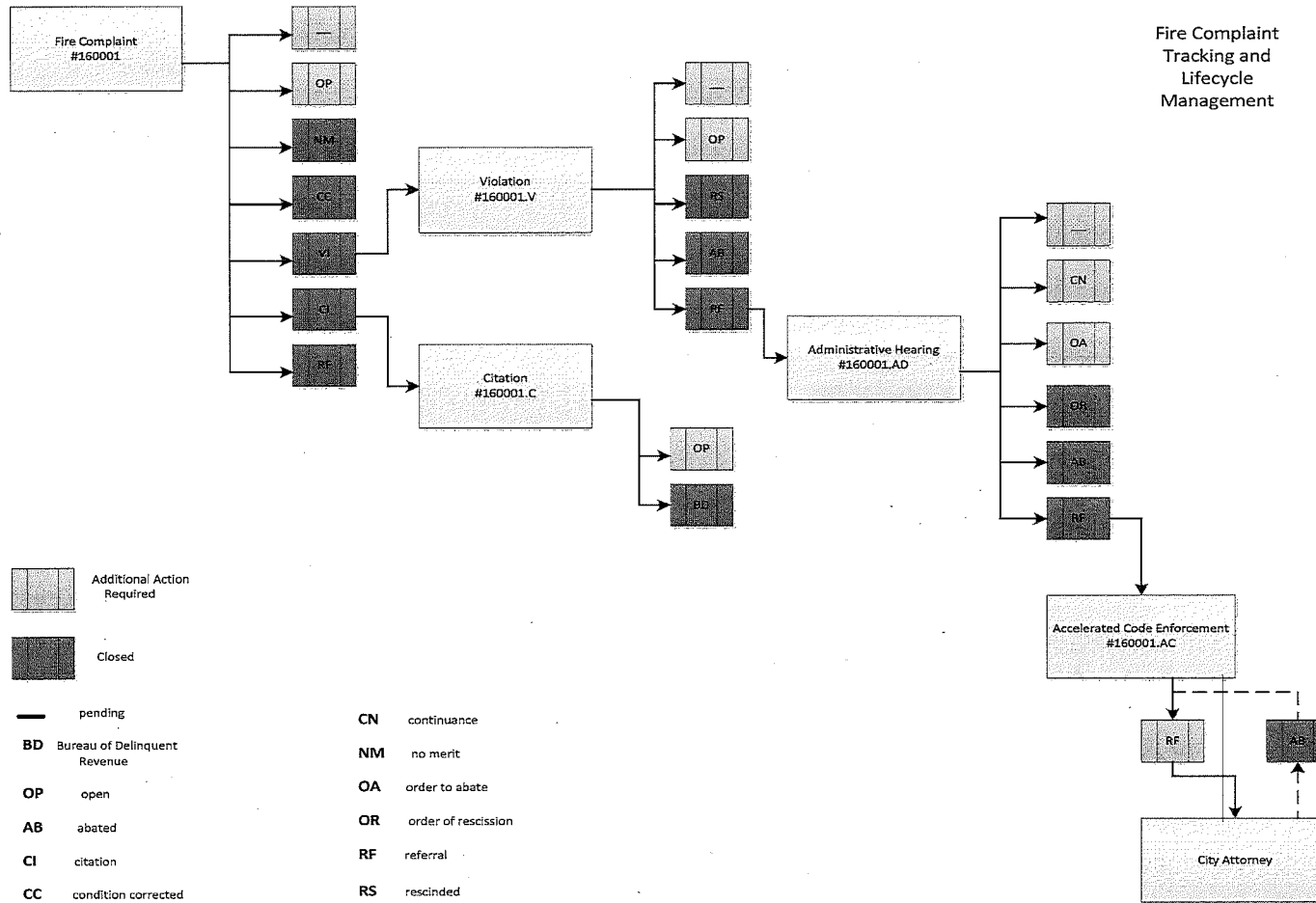
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Fire Complaint  
 Tracking and  
 Lifecycle  
 Management

Additional Action  
 Required

Closed

pending

**BD** Bureau of Delinquent  
 Revenue

**OP** open

**AB** abated

**CI** citation

**CC** condition corrected

**CN** continuance

**NM** no merit

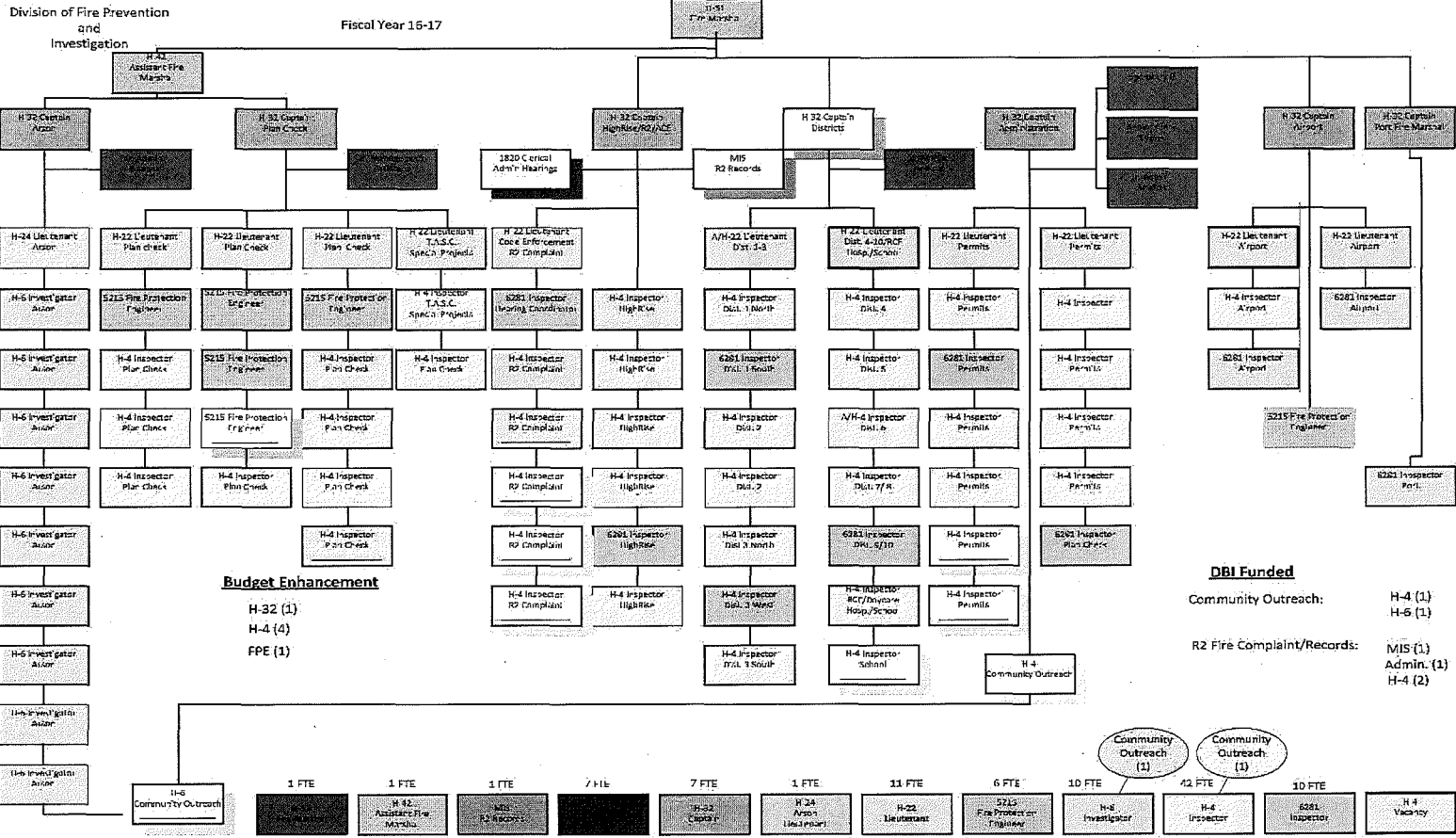
**OA** order to abate

**OR** order of rescission

**RF** referral

**RS** rescinded

2015-16 Civil Grand Jury  
 Fire Safety Inspections in San Francisco, June 2016  
 SFFD Response





City & County of San Francisco  
**Department of  
Technology**  
*Powered by Innovation*

One South Van Ness Avenue, 2nd Floor  
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Office: 415-581-4001 • Fax: 415-581-4002

Received via email  
9/23/2016  
File No. 160817

September 23, 2016

Presiding Judge John K. Stewart  
Department 206  
400 McAllister St.  
San Francisco, CA 94102-4514

Honorable Judge Stewart:

Pursuant to Penal Code Section 933 and 933.05 this letter transmits the San Francisco Department of Technology's response to the findings and recommendations in the 2015-16 San Francisco Grand Jury report, Fire Safety Inspections in San Francisco, A Tale of two Departments: Department of Building Inspection & San Francisco Fire Department issued on July 21, 2016. We would like to thank the members of the Civil Grand Jury for their interest in ensuring the fire safety of San Francisco residents in multi-residential buildings throughout the City.

Our department is also committed to supporting both the Fire Department and Department of Building Inspection technology systems that help protect the fire and life safety of San Francisco residents.

Thank you for the opportunity to comment on this Civil Grand Jury Report.

Sincerely,

  
Miguel A. Gamino Jr. | 葛迈魁

City Chief Information Officer (City CIO) | Office of Mayor Edwin M. Lee  
Executive Director | Department of Technology  
City and County of San Francisco

2015-16 Civil Grand Jury  
 Fire Safety Inspections in SF  
 MASTER LIST: FINDINGS Response Template

CGJ Year	Report Title	#	Findings	Respondent assigned by CGJ	2016 Responses (Agree/Disagree) Use the drop down menu	2016 Response Text
2015-16	Fire Safety Inspections in SF- A Tale of Two Departments: DBI & SFPD	F.1.4.	HIS cannot get an accurate list of R-2s in the City without the help of DBI Management Information Systems ("DBI MIS") because HIS does not have access to the DBI database that stores this information.	DT	disagree with it, wholly (explanation in next column)	DT does not manage this database.
2015-16	Fire Safety Inspections in SF- A Tale of Two Departments: DBI & SFPD	R.1.4	The information and Technology Department for the City and County of San Francisco should grant HIS senior management access to and permission to run reports from the Oracle database that contains the address, contact information and building attributes for R-2s in San Francisco.	DT	disagree with it, wholly (explanation in next column)	DT does not manage an Oracle database that contains the address, contact information and building attributes for R-2s in San Francisco. DT does manage the enterprise addressing system which DBI's Central Permit Bureau utilizes to enter new addresses into DBI's existing Oracle based systems.

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**From:** Reports, Controller (CON)  
**Sent:** Monday, October 03, 2016 4:43 PM  
**To:** Calvillo, Angela (BOS); Gosiengfiao, Rachel (BOS); BOS-Supervisors; BOS-Legislative Aides; Kawa, Steve (MYR); Howard, Kate (MYR); Steeves, Asja (CON); Campbell, Severin (BUD); Newman, Debra (BUD); Rose, Harvey (BUD); SF Docs (LIB); CON-EVERYONE; MYR-ALL Department Heads  
**Subject:** Issued: Report on the Status of Civil Grand Jury Recommendations FY14-15

As required by the San Francisco Administrative Code, Section 2.10, the Office of the Controller (Controller) has updated the implementation status of the San Francisco Civil Grand Jury's recommendations. The Controller tracks each recommendation until the respondent indicates that an agreed-to-be-implemented recommendation is fully implemented or abandoned because it is no longer reasonable or warranted. The updates for fiscal years 2003-04 through 2014-15 are posted on the Controller's website, located at <http://sfcontroller.org/status-civil-grand-jury-recommendations>.

This is a send-only e-mail 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.



CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	San Francisco's City Construction Program: It Needs Work	R1. NONE	NONE			**	
2014-15	San Francisco's City Construction Program: It Needs Work	R2. The BoS should amend Chapter 6 of the Administrative Code to require contractor performance as an additional criterion for construction contracts.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board cannot commit to timing or outcome of future legislation.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R3. The CGJ recommends that the proposed Chapter 6 amendment make past performance a construction award criterion for all future City construction contracts including LBE subcontracts.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board cannot commit to timing or outcome of future legislation.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R3. The CGJ recommends that the proposed Chapter 6 amendment make past performance a construction award criterion for all future City construction contracts including LBE subcontracts.	Mayor	Will be implemented in the future	The six Chapter 6 departments (Airport, Public Works, Port, Recreation and Park, SFMTA, and SFPUC), are committed to improving the pool of contractors who bid on City construction projects. In conjunction with the City Attorney and the Office of the Controller, the Chapter 6 departments are actively working to revise Chapter 6 to require performance evaluations and to devise procedures to consider past performance in contract awards. The departments are meeting regularly with a goal of presenting amendments to the law and associated processes to the Board of Supervisors in 2016.	Recommendation Implemented	File no. 160225 is an ordinance introduced at the Board of Supervisors in March 2016 that amends Chapter 6 to allow City departments authorized to perform public work to select construction contractors on the basis of best value to the City. The ordinance provides departments with another tool to procure public work contracts, establishes procedures and criteria for the selection of the best value contractor, and allows selection based on a combination of price and qualifications.  The ordinance requires that any Local Business Enterprise bid discount available under Chapter 14B of the Administrative Code be applied to the price or cost portion of the bid only. The ordinance requires Chapter 6 departments to document, evaluate, and report the performance of all contractors awarded construction contracts under Chapter 6 for all contracts first advertised on or after September 1, 2016.
2014-15	San Francisco's City Construction Program: It Needs Work	R4. The Office of the Controller should implement a standardized change order management policy and require all City departments to adhere to any new change order policy.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	Given the wide variety of project types, sizes, budgets, and complexity undertaken by the Chapter 6 departments, a "one size fits all" approach is not in accordance with best practices.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R4. The Office of the Controller should implement a standardized change order management policy and require all City departments to adhere to any new change order policy.	Mayor Office of the Controller	Will not be implemented because it is not warranted or reasonable	The Office of the Controller, and specifically the City Services Auditor (CSA), audits and assesses departments' adherence to relevant construction policies and procedures citywide, and provides technical assistance to departments as needed. As presently written, the Administrative Code calls for a decentralized approach to construction management for Chapter 6 departments, leaving this authority with each department. This allows for a segregation of duties between the Office of the Controller and the departments charged with construction management.  Given the wide variety of project types, sizes, budgets, and complexity undertaken by the Chapter 6 departments, a "one size fits all" approach is not in accordance with best practices. However, as recommended by CSA's May 2014 audit of citywide construction practices, the Chapter 6 departments, in conjunction with CSA, are moving forward with amendments to the Administrative Code, including potential modifications related to change order management policies. Public Works has a change order management tracking system. Change orders are tracked, categorized and regularly discussed in order to inform project management decisions. This system could be tailored to other Chapter 6 departments' needs.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R5. The Office of the Controller should implement a standardized construction contract closeout policy and require all City departments to adhere to any new policy.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	Although the Board of Supervisors supports the recommendation, it is not within the jurisdiction of the Board.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R5. The Office of the Controller should implement a standardized construction contract closeout policy and require all City departments to adhere to any new policy.	Mayor Office of the Controller	Will not be implemented because it is not warranted or reasonable	The Office of the Controller, and specifically the City Services Auditor (CSA), conducts audits and assessments of departments' adherence to relevant construction policies and procedures citywide, and provides technical assistance to departments as needed. As presently written, however, the Administrative Code calls for a decentralized approach to construction management for Chapter 6 departments, leaving this authority with each department. This allows for a segregation of duties between the Office of the Controller and the departments charged with construction management.  Given the wide variety of project types, sizes, budgets, and complexity undertaken by the Chapter 6 departments, a "one size fits all" approach is not always in accordance with best practices. However, as recommended by CSA's May 2014 audit of citywide construction practices, the Chapter 6 departments, in conjunction with CSA, are moving forward with amendments to the Administrative Code, including potential modifications related to construction contract closeout policies. At this time, Public Works is piloting new construction contract closeout procedures; if successful, this system is designed to be shared with the other Chapter 6 departments.	**	

(1) \*\* Response not required: Recommendation has been fully implemented or abandoned.

Status of the Recommendations  
by the Civil Grand Jury  
2014-15

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	San Francisco's City Construction Program: It Needs Work	R6. The BoS should request the BLA or CSA to benchmark the City's design and engineering workforce organizational structure against comparable cities and issue a report.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board of Supervisors will request a report back from the City Services Auditor during their next cycle of work planning by the end of the calendar year.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R6. The BoS should request the BLA or CSA to benchmark the City's design and engineering workforce organizational structure against comparable cities and issue a report.	Mayor Office of the Controller DPW	Requires further analysis	A benchmarking analysis could provide important and helpful insight into best practices for how to improve the organizational structure of the City's design and engineering workforce, and merits further consideration. As the Office of the Controller's City Services Auditor prepares its work plan, a benchmarking report will be considered, but must be weighed against other requests for that office's resources. The departments participating in this response defer to the Board of Supervisors with respect to involvement of the Board's Legislative Analyst, and the Office of the Controller will consult with the Board regarding which, if any, office performs the analysis.  Because of departmental jurisdiction, this recommendation would not be implemented by the Mayor or Public Works. The departments that would participate in this recommendation defer to the Board of Supervisors with respect to involvement of the Legislative Analyst, as well as to the participation of the Office of the Controller's City Services Auditor.	Will Not Be Implemented: Not Warranted or Not Reasonable	The departments that would participate in this recommendation defer to the Board of Supervisors with respect to involvement of the Legislative Analyst, as well as to the participation of the Controller City Services Auditor.
2014-15	San Francisco's City Construction Program: It Needs Work	R7. The Mayor should allocate financial resources in the current City budget to fund the Department of Technology hiring a consulting firm with extensive construction management expertise to develop citywide system requirements for the implementation of a construction management system.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	Although the Board of Supervisors supports the recommendation, it is not within the jurisdiction of the Board.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R7. The Mayor should allocate financial resources in the current City budget to fund the Department of Technology hiring a consulting firm with extensive construction management expertise to develop citywide system requirements for the implementation of a construction management system.	Mayor Office of the Controller DPW	Requires further analysis	The City's annual budget process begins in December of each year, and concludes in June the following year. As part of the Fiscal Years 2016-17 and 2017-18 budget process, Public Works, the Department of Technology, and the Mayor's Office will consider the inclusion of financial resources to fund a consultant to meet the vision of the Jury. Any request, however, must be weighed against other citywide funding requests, so funding cannot be guaranteed at this time.	Requires Further Analysis	The City's annual budget process begins in December of each year, and concludes in June the following year. As part of the Fiscal Years 2016-17 and 2017-18 budget process, Public Works, the Department of Technology, and the Mayor's Office will consider the inclusion of financial resources to fund a consultant to meet the vision of the Jury. Any request, however, must be weighed against other citywide funding requests, so funding cannot be guaranteed at this time.  The Financial Systems Project (FSP) has over 400 requirements for procurement in the categories of commodities and services (including professional services and construction). These requirements include managing the sourcing event from initiation, bid, evaluation and contract negotiation. Also as a part of the project there are approximately 150 requirements related to the payment processes, which include the ability for vendors and suppliers to submit invoices electronically into the system. FSP is currently working with the Chapter 5 departments to develop Citywide processes within the system so that efficiencies are gained in the procurement and management of these contracts.
2014-15	San Francisco's City Construction Program: It Needs Work	R8. The BoS should either request the CSA or BLA, or retain an outside firm, to benchmark the independent construction management structure of other cities and develop recommendations applicable to San Francisco.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board of Supervisors does not have the authority to implement this recommendation, the Board will request a report back from the City Services Auditor during their next cycle of work planning by the end of the calendar year.	**	
2014-15	San Francisco's City Construction Program: It Needs Work	R8. The BoS should either request the CSA or BLA, or retain an outside firm, to benchmark the independent construction management structure of other cities and develop recommendations applicable to San Francisco.	Mayor Office of the Controller	Requires further analysis	This recommendation overlaps with recent and existing work of a workgroup of Chapter 6 departments. Legislation modernizing Chapter 6 went into effect August 1, 2015 after more than a year of collaboration. The next round of changes, including a shared database to track contractor performance, is being discussed now with a goal of implementation by summer 2016.  However, a benchmarking analysis could provide important and helpful insight into best practices for how to improve the City's independent construction management structure, and will be considered. As the Office of the Controller's City Services Auditor prepares its work plan going forward, a benchmarking report will be considered, but must be weighed against other requests for that office's resources. The departments participating in this response defer to the Board of Supervisors with respect to involvement of the Board's Legislative Analyst, and the Office of the Controller will consult with the Board regarding which, if any, office performs the analysis.	Requires Further Analysis	A benchmarking analysis could provide important and helpful insight into best practices for how to improve the City's independent construction management structure, and will be considered. As the Office of the Controller's City Services Auditor prepares its work plan going forward, a benchmarking report will be considered, but must be weighed against other requests for that office's resources. The departments participating in this response defer to the Board of Supervisors with respect to involvement of the Board's Legislative Analyst, and the Office of the Controller will consult with the Board regarding which, if any, office performs the analysis.
2014-15	San Francisco's City Construction Program: It Needs Work	R9. The BoS should require all City departments to issue final project construction reports within nine month of project completion for all construction projects and for the reports to be posted on each department's website.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board of Supervisors does not have the authority to implement this recommendation. Although the Board of Supervisors does not have the authority to implement this recommendation, the Board requests the Departments to report on their construction projects by the end of the calendar year.	**	

(1) \*\*\*\* Response not required: Recommendation has been fully implemented or abandoned.

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	San Francisco's City Construction Program: It Needs Work	R9. The BoS should require all City departments to issue final project construction reports within nine month of project completion for all construction projects and for the reports to be posted on each department's website.	Mayor Office of the Controller	Will not be implemented because it is not warranted or reasonable	This recommendation is directed specifically to the Board of Supervisors. However, the responding departments welcome further discussion regarding final construction reports should the Board of Supervisors choose to pursue this recommendation. It should be noted, however, that pertinent budget and schedule information is provided in various forms to staff and oversight bodies. As per Administrative Code Section 6.22(k), Chapter 6 departments must prepare and execute closeout and acceptance documents. Upon presentation to oversight bodies (including the Citizens' General Obligation Bond Oversight Committee, the Recreation & Park Commission, Port Commission, Airport Commission, Public Utilities Commission, and the Municipal Transportation Agency Board of Directors), this information is posted online and made available to the public.	**	
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 1.1: That the Ethics Commission recommend to the Board of Supervisors an amendment to the WPO that provides real protection for whistleblowers, in conformity with the Charter mandate of Proposition C.	Ethics Commission & Executive Director	May be implemented	The Ethics Commission is willing to suggest amendments to the WPO to the Board of Supervisors but will need the assistance of the City Attorney's Office, the Department of Human Resources and the Controller's Office. Also, due to an already heavy planned workload for this year, and in addition the upcoming election cycle, the Commission anticipates that it will not be able to begin this project until 2016.  Further, should the Board of Supervisors communicate in writing to the Commission that they wish to conduct the drafting of these amendments, the Commission will defer to the Board.	Recommendation Implemented	The Ethics Commission provided its written analysis of the CGJ's WPO recommendations in a memo dated January 20, 2016. At its meeting on January 25, 2016, the Commission discussed that analysis and directed that draft amendments to the Ordinance be presented for further action. On March 28, 2016, in addition to strengthening existing law by unilaterally adopting regulations that interpret and clarify terms in the current statute, the Commission unanimously approved a series of statutory changes to strengthen the Ordinance to forward to the Board of Supervisors for its action. The Commission's recommendations were transmitted to the Board on April 11, 2016.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 1.2: If the Ethics Commission fails to act within a reasonable time, that the Board of Supervisors on its own amend the WPO to provide real protection to whistleblowers, in conformity with the Charter mandate of Proposition C.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board of Supervisors will work with the Ethics Commission to improve the WPO; however, the Board of Supervisors cannot predict the timing or outcome of the Ethics Commission's actions nor the approvals by the legislative body.	**	
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 1.3: If the Ethics Commission requests that the Board amend the WPO and the Board fails to act within a reasonable time, that the Commission consider submitting such an amendment directly to the voters.	Ethics Commission & Executive Director	May be implemented	If the Commission recommends amendment(s) to the Board that are not considered or not adopted, the Commission will then consider sending the amendment(s) to the voters.	Requires Further Analysis	Since transmitting its recommendations to the Board, Ethics Commission staff has engaged with BCS leadership and the City Attorney's Office regarding the development and introduction of a formal draft Ordinance for the Board's consideration, both of which are anticipated in May 2016. Commission staff will keep the Ethics Commission informed about the Board's actions on the proposed Ordinance. Should the Board fail to act on the WPO in a reasonable timeframe, the Commission would be informed of that and could then consider whether to submit the item directly to the voters.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 1.4: If the Ethics Commission and the Board fail to act within a reasonable time, that the Mayor introduce legislation to the Board of Supervisors that would amend the WPO to provide real protection to whistleblowers, in conformity with the Charter mandate of Proposition C.	Mayor	Will not be implemented because it is not warranted or reasonable	This sub-recommendation is part of a larger recommendation that first calls for the Ethics Commission to submit an amendment to the WPO to the Board of Supervisors. If the Ethics Commission fails to do so, the Board of Supervisors is to act on its own to amend the WPO. In the event that the Ethics Commission does not take action or the recommended amendment is not enacted by the Board of Supervisors, the Ethics Commission is to submit an amendment directly to the voters. In the event that none of these recommendations occur, Recommendation 1.4 calls for the Mayor to introduce legislation to the Board of Supervisors to amend the ordinance.  The amendment to the WPO recommended here is too vaguely-defined for the Mayor to take a position on it at this time. Further, the sequencing described in the recommendation is not consistent with the way the Mayor's Office approaches major changes to City law. If such changes were to be contemplated, a consensus-based approach would be adopted, with engagement from relevant City departments, stakeholders, legal and subject-matter experts, as well as other elected officials. This is a more effective method of enacting changes to City law.	**	
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 2.1: That amendments to the WPO expand the definition of whistleblowing to cover oral complaints to the complainant's department; disclosures to a City department or commission other than the complainant's own; and providing information to any of the recipients listed in the Charter mandate (hereafter "listed recipients"), outside of the formal complaint or investigation process.	Ethics Commission & Executive Director	May be implemented	If and when the Commission considers amending the WPO, it will take these recommendations into consideration. It may be advisable to expand the scope of the definition of "providing information" but there needs to be provision for the memorializing of these reports.	Recommendation Implemented	The Ethics Commission's proposed strengthening amendments recommend expanding the definition of whistleblowing to cover disclosures that include those brought outside the formal complaint or investigative process; and to a City department or commission other than the complainant's own, as well as to another state or federal agency. In addition, the term "complaint" was clarified to mean any formal or informal writing or record such as a letter, email or other communication sufficient to convey what the complainant in good faith believes evidences improper government activity by a city officer or employee. A "complaint" can also include an oral communication that is recorded in writing by the recipient of the complaint or that is accompanied by written information demonstrating improper government activity by a city officer or employee.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 2.1: That amendments to the WPO expand the definition of whistleblowing to cover oral complaints to the complainant's department; disclosures to a City department or commission other than the complainant's own; and providing information to any of the recipients listed in the Charter mandate (hereafter "listed recipients"), outside of the formal complaint or investigation process.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board of Supervisors will work with the Ethics Commission to improve the WPO; however, the Board of Supervisors cannot predict the timing or outcome of the Ethics Commission's actions nor the approvals by the legislative body. The Board would also need a more specific definition of "oral complaints" in order to warrant implementation of this recommendation.	**	

(1) \*\*\*\* Response not required; Recommendation has been fully implemented or abandoned.

Status of the Recommendations  
by the Civil Grand Jury  
2014-15

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 2.1: That amendments to the WPO expand the definition of whistleblowing to cover oral complaints to the complainant's department; disclosures to a City department or commission other than the complainant's own; and providing information to any of the recipients listed in the Charter mandate (hereafter "listed recipients"), outside of the formal complaint or investigation process.	Mayor	Requires further analysis	No response text provided.	Requires Further Analysis	On March 28, 2016, the Ethics Commission adopted Whistleblower Protection Ordinance Regulations to clarify and interpret terms used in the ordinance and adopted proposed amendments to the Whistleblower Ordinance that the Ethics Commission transmitted on May 11, 2016 for consideration. The proposed amendments include clarifying definition of whistleblowing and covered complaints filed with departments other than the complainant's department.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 2.2: That these amendments further expand the scope of covered disclosures to include "providing information" to any of the listed recipients regarding improper government activities, whether or not such information is set forth in a formal complaint, or provided during an official investigation.	Ethics Commission & Executive Director	May be implemented	If and when the Commission considers amending the WPO, it will take these recommendations into consideration. It may be advisable to expand the scope of the definition of "providing information" but there needs to be provision for the memorializing of these reports.	Recommendation Implemented	In the Ethics Commission's recommended changes, the term "complaint" was clarified to mean any formal or informal writing or record such as a letter, email or other communication sufficient to convey what the complainant in good faith believes evidences improper government activity by a city officer or employee. A "complaint" can also include an oral communication that is recorded in writing by the recipient of the complaint or that is accompanied by written information demonstrating improper government activity by a city officer or employee. In addition, for purposes of affording Whistleblower protections, the scope of what is defined as an "improper governmental activity" was clarified and expanded to include alleged "gross waste, fraud and abuse of City resources," and not alleged violations of laws within the Ethics Commission's jurisdiction only.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 2.2: That these amendments further expand the scope of covered disclosures to include "providing information" to any of the listed recipients regarding improper government activities, whether or not such information is set forth in a formal complaint, or provided during an official investigation.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board of Supervisors will work with the Ethics Commission to improve the WPO; however, the Board of Supervisors cannot predict the timing or outcome of the Ethics Commission's actions nor the approvals by the legislative body. The Board would also need a more specific definition of what "providing information" entails in order to warrant implementation of this recommendation since there is no clear data that defines the problem.	**	
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 2.2: That these amendments further expand the scope of covered disclosures to include "providing information" to any of the listed recipients regarding improper government activities, whether or not such information is set forth in a formal complaint, or provided during an official investigation.	Mayor	Requires further analysis	No response text provided.	Requires Further Analysis	On March 28, 2016, the Ethics Commission adopted Whistleblower Protection Ordinance Regulations to clarify and interpret terms used in the ordinance and adopted proposed amendments to the Whistleblower Ordinance that the Ethics Commission transmitted on May 11, 2016 for consideration. The proposed amendments include expanding the types of improper governmental activities subject to protection.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 3: That amendments to the WPO provide a meaningful remedy for the effects of retaliation, by authorizing the Ethics Commission to order cancellation of a retaliatory job action, and increasing the limit of the civil penalty available under the WPO to an amount adequate to repay the financial losses that can result from such an action.	Ethics Commission & Executive Director	May be implemented	The Commission believes these recommendations may well improve the WPO and will also take them into consideration. The Commission notes that Employment Law is not part of our mandate and is normally handled by other departments. Many factors may come into consideration in this area such as MOUs and other labor agreements that are not properly part of the Ethics Commission mission. The Commission also notes that these proposals may create a large increase in staff workload.	Recommendation Implemented	The Ethics Commission's recommended Ordinance changes propose to expand remedies for retaliatory employment actions by increasing civil penalties from a maximum of \$5,000 to a maximum of \$10,000, and by authorizing the Ethics Commission to issue an Order following an administrative hearing in which a violation was found that calls for the cancellation of a retaliatory action. In addition, for greater clarity and effectiveness of the law, the Commission has defined by regulation the term "other similar adverse employment actions." This clarifying regulation would continue to be applicable to the Ordinance as proposed by the Ethics Commission.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 3: That amendments to the WPO provide a meaningful remedy for the effects of retaliation, by authorizing the Ethics Commission to order cancellation of a retaliatory job action, and increasing the limit of the civil penalty available under the WPO to an amount adequate to repay the financial losses that can result from such an action.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	The Board of Supervisors concurs with the Mayor's Office, which states that "under the WPO, the Ethics Commission is provided with punitive, not restorative, powers to respond to the finding of retaliatory job action. However, there are a number of other avenues a complainant can pursue in such circumstances. As the Civil Grand Jury notes, 'City officers and employees have successfully litigated complaints of whistleblower retaliation in state court.' Contrary to the Jury's claim that this proves the ineffectiveness of the WPO, it in fact demonstrates that there is an established process for filing a civil action. In addition, if an employee believes that he or she has been disciplined without just cause or has suffered adverse job impact in retaliation for blowing the whistle, the employee can file a grievance through his or her union. A grievance of this nature may be resolved at the department or Department of Human Resources level, or be escalated to arbitration, in accordance with the negotiated rules of the employee's Memorandum of Understanding. If the Ethics Committee had investigated and found that the job action was in fact retaliation for activities protected by the Whistleblower Protection Ordinance, this ruling would likely influence the independent arbitrator, who does have the power to reverse a retaliatory job action. While the investigation and ruling of the Ethics Commission would be a critical step in the process, as the Ethics Commission notes in their response, labor relations are the responsibility of the Department of Human Resources.	**	

(1) \*\*\*\* Response not required: Recommendation has been fully implemented or abandoned.

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 3: That amendments to the WPO provide a meaningful remedy for the effects of retaliation, by authorizing the Ethics Commission to order cancellation of a retaliatory job action, and increasing the limit of the civil penalty available under the WPO to an amount adequate to repay the financial losses that can result from such an action.	Mayor	Will not be implemented because it is not warranted or reasonable	Under the WPO, the Ethics Commission is provided with punitive, not restorative, powers to respond to findings of retaliatory job action. However, there are a number of other avenues a complainant can pursue in such circumstances. As the Civil Grand Jury notes, "City officers and employees have successfully litigated complaints of whistleblower retaliation in state court." Contrary to the Jury's claim that this proves the ineffectiveness of the WPO, it in fact demonstrates that there is an established process for filing a civil action. In addition, if an employee believes that he or she has been disciplined without just cause or has suffered an adverse job impact in retaliation for blowing the whistle, the employee can file a grievance through his or her union. A grievance of this nature may be resolved at the department or Department of Human Resources level, or be escalated to arbitration, in accordance with the negotiated rules of the employee's Memorandum of Understanding. If the Ethics Committee had investigated and found that a job action was in fact retaliation for activities protected by the Whistleblower Protection Ordinance, this ruling would likely influence the independent arbitrator, who does have the power to reverse a retaliatory job action. While the investigation and ruling of the Ethics Commission would be a critical step in the process, as the Ethics Commission notes in their response, labor relations are the responsibility of the Department of Human Resources. Given the sufficient availability of existing options for complainants to pursue both civil penalties and reversal of the retaliatory job action, there is no need to amend the WPO in the manner recommended.	**	
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 4: That amendments to the WPO include a revision of Subsection 4.115(b)(iii) providing that the burden of proof set forth therein does not apply during preliminary review and investigation of administrative complaints to the Commission.	Ethics Commission & Executive Director	May be implemented	As stated above, the Commission will carefully consider these recommendations when considering amending the ordinance. The Commission believes that there needs to be some demonstrable basis for a complaint in order to justify an investigation.	Recommendation Implemented	The Ethics Commission clarified by regulation that the "preponderance of the evidence" standard applies in establishing that retaliation actually occurred only in a civil action or an administrative proceeding before the Ethics Commission, not in the process of investigating the complaint. This clarifying regulation would continue to be applicable to the Ordinance as proposed by the Ethics Commission.
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 4: That amendments to the WPO include a revision of Subsection 4.115(b)(iii) providing that the burden of proof set forth therein does not apply during preliminary review and investigation of administrative complaints to the Commission.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	There should be minimum evidence requirement to justify a whistleblower complaint in order for the Ethics Commission to pursue an investigation.	**	
2014-15	San Francisco's Whistleblower Protection Ordinance is in Need of Change	R 4: That amendments to the WPO include a revision of Subsection 4.115(b)(iii) providing that the burden of proof set forth therein does not apply during preliminary review and investigation of administrative complaints to the Commission.	Mayor	Will not be implemented because it is not warranted or reasonable	As noted above, the burden of proof requirement provides critical balance to the WPO by eliminating the element of moral hazard that its removal would enable.	**	
2014-15	CleanPowerSF At Long Last	R1. That CleanPowerSF be designed, first and foremost, to be financially viable and to grow quickly without undue risk.	Mayor SF Public Utilities Commission (Agency)	Recommendation implemented	CleanPowerSF is designed to be financially viable and to grow quickly without undue risk.  The Mayor's Office and the SFPUC, however, reject the Civil Grand Jury's suggestion that the program use unbundled RECs as a tool to support the program's growth and financial viability.  We believe purchasing unbundled RECs to claim non-renewable power as renewable is not appropriate for the City's community choice aggregation program. Moreover, unlike the experience of Marin Clean Energy recounted in the report, San Francisco is procuring supply for a CleanPowerSF program at a time when electricity prices - including bundled renewables - are quite low, and projected to remain low. As a result, San Francisco's program at launch is expected to be affordable with bundled renewable supplies, avoiding the arguments explained in the report about the degraded quality of programs reliant upon unbundled RECs.  CleanPowerSF is designed to not rely on unbundled RECs. We believe that the program will grow more quickly if consumers have the confidence that the renewable power procured and claimed by the program is high quality renewable. We have made the policy decision to only launch the program if the affordability goals can be met with bundled renewables supplying the program.	**	
2014-15	CleanPowerSF At Long Last	R1. That CleanPowerSF be designed, first and foremost, to be financially viable and to grow quickly without undue risk.	Board of Supervisors	Recommendation implemented	The program is designed to be viable and able to grow quickly.	**	
2014-15	CleanPowerSF At Long Last	R2. That CleanPowerSF be free to use unbundled RECs, and to provide less than 100% green power, as needed to meet its goals of financial viability and early expansion.	Mayor SF Public Utilities Commission (Agency)	Will not be implemented because it is not warranted or reasonable	CleanPowerSF is designed to be financially viable without using unbundled RECs. Moreover, as previously stated, the Mayor's Office and the SFPUC reject the use of unbundled RECs for CleanPowerSF to meet its financial goals or increase the growth of the program. CleanPowerSF will be honest and transparent about the renewable content of the power it is procuring for its customers.  There is a growing consensus against the use of unbundled RECs. In July 2015, the Board of Supervisors passed B-0 an initiative ordinance including the following language:  "It is the City's policy that the use of unbundled renewable energy credits for CleanPowerSF customers shall be limited to the extent deemed feasible by the SFPUC, consistent with the goals of the program." (Italics added for emphasis)  As discussed above, however, the recommendation to include a renewable power option that is less than 100% has been implemented.	**	

(1) "\*" Response not required; Recommendation has been fully implemented or abandoned.

Status of the Recommendations  
by the Civil Grand Jury  
2014-15

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	CleanPowerSF At Long Last	R2. That CleanPowerSF be free to use unbundled RECs, and to provide less than 100% green power, as needed to meet its goals of financial viability and early expansion.	Board of Supervisors	Recommendation implemented	CPSF is not currently restricted from using unbundled RECs, however the Board of Supervisors recently approved language saying unbundled RECs, "shall be limited to the extent deemed feasible by the SFPUC, consistent with the goals of the program" and state law. CPSF is designed with two product offerings: one with 100% green power and another with less than 100% but more than what PG&E offers.	**	
2014-15	CleanPowerSF At Long Last	R3. That CleanPowerSF be designed to provide as many local jobs as it can, without compromising its financial viability and potential for early expansion.	Mayor SF Public Utilities Commission (Agency)	Recommendation implemented	CleanPowerSF is designed to provide as many jobs as it can and add more jobs with its growth.	**	
2014-15	CleanPowerSF At Long Last	R3. That CleanPowerSF be designed to provide as many local jobs as it can, without compromising its financial viability and potential for early expansion.	Board of Supervisors	Recommendation implemented	CPSF is designed to provide local jobs and its expansion will enable it to create yet more local jobs.	**	
2014-15	CleanPowerSF At Long Last	R4. That SFPUC integrate the GoSolarSF program into CleanPowerSF to take advantage of their complementary relationship	Mayor SF Public Utilities Commission (Agency)	Will be implemented in the future	The CleanPowerSF program design envisions its customers will be able to access GoSolarSF incentives. The amount of funding CleanPowerSF will contribute to GoSolarSF has not yet been determined.	Will Be Implemented in the Future	PUC staff conducted a meeting with GoSolarSF and other stakeholders on April 27, 2016. PUC staff is drafting program changes to achieve the City's goal of putting more solar on San Francisco rooftops, while improving the relationship between GoSolarSF incentives and CleanPowerSF customers. Follow-up meetings with stakeholders to get more input on the proposals are scheduled in late May and early June. PUC staff will then bring recommendations to AGM Power, GM, and to then Commission for approval. Target approval is August 23, 2016.
2014-15	CleanPowerSF At Long Last	R4. That SFPUC integrate the GoSolarSF program into CleanPowerSF to take advantage of their complementary relationship	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	Though the Board of Supervisors enthusiastically supports this effort, and though the relevant department, the San Francisco Public Utilities Commission, is actively working to implement it, the restrictive response options imposed by the Civil Grand Jury process prevent the Board from offering an accurate response. The recommendation involves a multi-year effort being conducted outside of the Board's direct authority, and there is no response option for that situation.	**	
2014-15	CleanPowerSF At Long Last	R5. That local officials, including the Mayor, put the full weight of their offices behind the success of the CleanPowerSF program	Mayor SF Public Utilities Commission (Agency)	Recommendation implemented	The Mayor, Board President Breed, San Francisco Board of Supervisors, and the SFPUC have been working to ensure the success of CleanPowerSF.	**	
2014-15	CleanPowerSF At Long Last	R5. That local officials, including the Mayor, put the full weight of their offices behind the success of the CleanPowerSF program	Board of Supervisors	Recommendation implemented	The Board of Supervisors has been putting its full weight behind CleanPowerSF for years, and is thankful to be joined by Mayor Lee, the SFPUC, and a broad coalition of city officials, residents, business owners, and advocates who are committed to CleanPowerSF's success.	**	
2014-15	Office of the Assessor-Recorder. Despite Progress, Still The Lowest Rated Office in the State	R1. The Office of Assessor-Recorder should raise the bar by meeting the state requirement and clear the backlog by the end of FY16-17.	Mayor	Requires further analysis	Please see the department's response regarding the feasibility of clearing the backlog by the end of FY 2016-17. The Mayor supports the goal of clearing the backlog and as a result the budget has included funds for significant staffing and IT investments for the Assessor-Recorder's Office over the past several fiscal years.	Will Be Implemented in the Future	Over the last two budget cycles, the Assessor-Recorder's Office has filled positions to continue to bring down the outstanding assessment work load, particularly in new construction cases, and provide key resources in Finance, IT and Human Resources to support a growing staff.  The office developed a long-term staffing analysis in FY 2015-2016 and has the goal to refine that plan as more information is known about market conditions or resource changes over time. As part of the FY2016-17 and FY2017-18 budget process, the Assessor-Recorder's Office has submitted a request for additional resources to restructure the organization for long-term success and implement business process improvements, provide additional appraiser, analytical and clerical staff to work on outstanding cases, and to modernize and replace the City's obsolete property assessment and tax systems.  The Office of the Mayor supports the Assessor-Recorder in her efforts to secure the continuation of the State-County Assessors' Partnership Agreement Program (SCAPAP), a state grant dedicated to improving the administration of the county property tax rolls, as grant funding expires at the end of FY2016-17.
2014-15	Office of the Assessor-Recorder. Despite Progress, Still The Lowest Rated Office in the State	R1. The Office of Assessor-Recorder should raise the bar by meeting the state requirement and clear the backlog by the end of FY16-17.	Assessor-Recorder	-The recommendation has been implemented -The recommendation requires further analysis -The recommendation will not be implemented because it is not warranted or reasonable	See response to Findings 3, 4 and 5. Although our office has been successful in advocating for and receiving funds from the State and locally, long term success depends on a number of factors, including: success in receiving additional support for operations, identifying operational efficiencies, support in the hiring process to implement the staffing plan, and market conditions.  While the office's goal is to clear the outstanding assessment cases, current staffing levels are not adequate to do so by FY 16-17. The office, however, is focused on refining our analysis to determine the combination of strategies needed to address work load in the long-term.	Recommendation implemented / Will Be Implemented in the Future	Over the last two budget cycles, ASR has received funding for additional staff through the City's annual budget process. New positions were funded to keep pace with a high-volume incoming work load, particularly in new construction cases, and provide key resources in Finance, IT and Human Resources to support a growing staff. The office developed a long-term staffing analysis in FY 2015-2016 and intends to refine that plan as more information is known about market conditions or resource changes over time. As part of the FY2016-17 and FY2017-18 budget process, the Assessor-Recorder's Office has submitted a request for additional resources to restructure the organization for long-term success and implement business process improvements, provide additional appraiser, analytical and clerical staff to work on outstanding cases, and to modernize and replace the City's obsolete property assessment and tax systems. In addition, ASR is working at the state level to ensure the continuation of the State-County Assessors' Partnership Agreement Program (SCAPAP), a state grant dedicated to improving the administration of the county property tax rolls, as grant funding expires at the end of FY2016-17.

(1) \*\*\*\* Response not required; Recommendation has been fully implemented or abandoned.

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R2. The Office of Assessor-Recorder needs to conduct a staffing analysis and generate an aggressive written long-term plan to maintain a backlog-free OAR before the end of CY2015.	Mayor	Will be implemented in the future	Please see the department's response for information on its plan to implement this recommendation by the end of Fiscal Year 2015-16. The Mayor encourages the department to generate a long-term plan, which will supplement its practice of producing an annual staffing analysis.	Recommendation Implemented	The Assessor-Recorder's Office has developed a staffing analysis in FY 2015-2016. In addition, the office is hiring a number of new appraiser positions, including transitioning limited-term assessment appeals positions to permanent appraiser positions focused on new construction, parcel management, and change in ownership assessment cases. The office has begun to implement a number of business process improvements throughout the organization to gain efficiencies where possible. As resources become available in the coming fiscal year, the office intends to refine its long-term projections to work down its caseload.
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R2. The Office of Assessor-Recorder needs to conduct a staffing analysis and generate an aggressive written long-term plan to maintain a backlog-free OAR before the end of CY2015.	Assessor-Recorder	-The recommendation has been implemented -The recommendation has not been, but will be, implemented in the future	See response to Finding 5. The office's goal is to develop a long-term plan in FY 2015-16 and to continue refining that plan as more information is known about market conditions, or resource changes.	Will Be Implemented in the Future	The office developed a staffing analysis in FY 2015-2016 and plans to refine that analysis as more information is known about market conditions or resource changes over time. In addition, the office is hiring a number of new appraiser positions, including transitioning limited-term assessment appeals positions to permanent appraiser positions focused on new construction, parcel management, and change in ownership assessment cases. The office has begun to implement a number of business process improvements throughout the organization to gain efficiencies where possible. As resources become available in the coming fiscal year, the office intends to refine its long-term projections to work down its caseload.
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R2. The Office of Assessor-Recorder needs to conduct a staffing analysis and generate an aggressive written long-term plan to maintain a backlog-free OAR before the end of CY2015.	Board of Supervisors	Recommendation implemented	The staffing analysis will be complete by the end of FY2015-2016.	**	
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R3. The City and County needs to provide General Fund money (from the expected increase in revenue from property taxes due to a more productive OAR) in the FY15-16 budget to support new funding for key administrative positions and on-going funding for OAR positions after the expiration of the three-year grant.	Mayor	Recommendation implemented	The adopted Fiscal Year 2015-16 budget includes a \$655,634 increase in General Fund support for the Assessor-Recorder's Office; 16 new positions are included in that funding increase.	**	
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R3. The City and County needs to provide General Fund money (from the expected increase in revenue from property taxes due to a more productive OAR) in the FY15-16 budget to support new funding for key administrative positions and on-going funding for OAR positions after the expiration of the three-year grant.	Assessor-Recorder	-The recommendation has been implemented -The recommendation has not been, but will be, implemented in the future	The Board of Supervisors and the Mayor approved a \$22 million General Fund budget for OAR for FY 2015-16, including additional resources for key administrative and operations positions. As the office further refines the long-term outlook, additional resources may be necessary to reduce the number of outstanding assessment cases. In addition, the expiration of a three-year state grant is outside the timeframe of the recently passed two year FY 2015-17 budget. The office will be in conversations with the Board of Supervisors and the Mayor's Office prior to the expiration of grant funding in FY 2017-18.	Will Be Implemented in the Future	The Board of Supervisors and the Mayor approved a \$22 million General Fund budget for OAR for FY 2015-16, including additional resources for key administrative and operations positions. Moving forward, OAR will continue to work with the Mayor and the Board of Supervisors to identify revenue to help resource the department. Additionally, OAR has begun work with the California Assessors Association (CAA) to coordinate efforts to extend the state grant dedicated to performing essential property tax duties, such as assessments and enrollments. Currently, the grant funding ends in FY 2017-18.
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R3. The City and County needs to provide General Fund money (from the expected increase in revenue from property taxes due to a more productive OAR) in the FY15-16 budget to support new funding for key administrative positions and on-going funding for OAR positions after the expiration of the three-year grant.	Board of Supervisors	Recommendation implemented	The Board of Supervisors and the Mayor approved the FY2015-16 budget, which included a \$655,634 increase in General Fund support and 16 new positions for the OAR.	**	
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R4. The Office of Assessor-Recorder should regularly meet with staff from DBI to transfer data more efficiently between the departments before the end of CY15.	Mayor	Recommendation implemented	As noted in the Assessor-Recorder's response, this recommendation has been implemented.	**	
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R4. The Office of Assessor-Recorder should regularly meet with staff from DBI to transfer data more efficiently between the departments before the end of CY15.	Assessor-Recorder	Recommendation implemented	The Office of the Assessor-Recorder is currently holding regularly scheduled meetings with the Department of Building Inspection (DBI) to improve data flow between both departments. In addition, we will be working through the City Services Auditor Division within the Controller's Office and with DBI to find additional opportunities to improve the flow of information from DBI to our office this is particularly important as DBI begins planning for the next phase of their technology project.	**	

(1) \*\*\*\*\* Response not required: Recommendation has been fully implemented or abandoned.

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R5. The 2015 and on-going OAR Annual Reports need to be written in a more explicit, consumer-friendly, jargon-free fashion, highlighting and clearly defining any efforts made in reducing the backlog, discussing the financial implications for not doing so, and addressing any progress made, or obstacles encountered, in fulfilling the recommendations for office improvements.	Mayor	Will be implemented in the future	As noted in the Assessor-Recorder's response, this recommendation will be implemented in the upcoming OAR Annual Report, which is expected to be released in September 2015.	Recommendation implemented	In its 2015 Annual Report, which covers FY 2014-15, the Assessor-Recorder explains workload queue (page 17). This information was supported by a detailed analysis of supplemental and escape assessments on page 18 of the report, as well as a description and analysis of our assessment appeals on page 15.
2013-14	Office of the Assessor-Recorder: Despite Progress, Still The Lowest Rated Office in the State	R5. The 2015 and on-going OAR Annual Reports need to be written in a more explicit, consumer-friendly, jargon-free fashion, highlighting and clearly defining any efforts made in reducing the backlog, discussing the financial implications for not doing so, and addressing any progress made, or obstacles encountered, in fulfilling the recommendations for office improvements.	Assessor-Recorder	Recommendation implemented	The Office of the Assessor-Recorder strives to make information on the functions of the office and requirements of the revenue and tax code assessable to taxpayers and looks forward to continuing to improve our communications. Pages 4 & 5 of the 2014 Annual Report highlights key initiatives for the office. Pages 11-21 focuses on the Real Property Division and includes information such as pending assessment appeals cases over the last ten years and descriptions of the property roll. While the report does not include a discussion on the financial implication of unworked assessments (because individual cases have not yet been reviewed), pages 7-9 speaks to how property tax revenues are allocated and programs it supports.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.1. That by December 2015 the Chief develop a plan and the methodology for bringing response times for both Code 2 and Code 3 calls to required levels, and that the Department achieve compliance with EOA standards by December 2016.	SFFD Chief of Department	Recommendation implemented	The development of a plan and methodology was formalized in the fall of 2014 with the formation of the City's ambulance work group, headed by the Mayor's Office with representatives from SFFD, DEM, Controller, Board of Supervisors, Fire Commission and other relevant stakeholders. This work group and its various sub groups were responsible for analyzing the issues facing the City's EMS system and developing recommendations to meet both response and EOA metrics for both the SFFD and private providers. A number of these recommendations have been implemented, including additional staffing for the Department, the purchase of new ambulances, and the staffing of a nurse at a DPH shelter. In addition, a number of recommendations have been funded in the new FY15-16 budget or are currently being implemented, such as restoration of the HOME team, per diem employees and other initiatives. There is on-going analysis done to staffing levels, work load, and call volume to regularly monitor the performance of the system, and all invested providers meet regularly to discuss issues and topics of relevance.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.1. That by December 2015 the Chief develop a plan and the methodology for bringing response times for both Code 2 and Code 3 calls to required levels, and that the Department achieve compliance with EOA standards by December 2016.	SFFD Commission	Recommendation implemented	The development of a plan and methodology was formalized in the fall of 2014 with the formation of the City's ambulance work group, headed by the Mayor's Office with representatives from SFFD, DEM, Controller, Board of Supervisors, Fire Commission and other relevant stakeholders. This work group and its various sub groups were responsible for analyzing the issues facing the City's EMS system and developing recommendations to meet both response and EOA metrics for both the SFFD and private providers. A number of these recommendations have been implemented, including additional staffing for the Department, the purchase of new ambulances, and the staffing of a nurse at a DPH shelter. In addition, a number of recommendations have been funded in the new FY15-16 budget or are currently being implemented, such as restoration of the HOME team, per diem employees and other initiatives. There is on-going analysis done to staffing levels, work load, and call volume to regularly monitor the performance of the system, and all invested providers meet regularly to discuss issues and topics of relevance.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.1.1. The Fire Commission should require the Chief to prepare a monthly report on ambulance performance versus the EOA and the average number of ambulances capable of responding to a service call.	SFFD Chief of Department	Recommendation implemented	Even before the Civil Grand Jury Report was issued, the Fire Commission had already tasked the Chief of Department to report on ambulance response times and progress toward meeting the EOA. These reports are typically provided by the Deputy Chief of Operations. The Commission has been actively monitoring these issues for years.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.1.1. The Fire Commission should require the Chief to prepare a monthly report on ambulance performance versus the EOA and the average number of ambulances capable of responding to a service call.	SFFD Commission	Recommendation implemented	Even before the civil grand jury report was issued, the Fire Commission had tasked the Chief to report on ambulance response times and progress toward meeting the EOA. These reports are typically provided by the Deputy Chief of Operations. The Commission has been actively monitoring these issues for years.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.2. That by July 2016, the Chief institute a modified static/dynamic model of ambulance deployment to include ambulances based at stations in Battalions 7, 8, 9, and 10 with the remaining ambulance fleet operating out of Station 49.	SFFD Chief of Department	Will not be implemented because it is not warranted or reasonable	There are numerous issues with a model where ambulance employees work a 24-hour shift, as the Department experienced in the early years of the merger with DPH. These include fatigue, safety and deterioration of clinical skills, which result from long work periods at high call volume without adequate rest breaks. In addition, the Department was part of a lawsuit surrounding FLSA overtime at the time it employed the 24-hour ambulance shift model, since employees that work 24-hours on an ambulance are not considered fire suppression employees and are subject to separate labor rules. The 24-hour shift is generally discouraged within the EMS industry. A number of current ambulance posting locations are tight by or are very close to existing fire stations; thus, provided that the system has sufficient resources and those postings can be maintained, these areas should then be well covered within the dynamic ambulance deployment model.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.2.1. The Civil Grand Jury recommends the number of supply trips from Station 49 be reduced through the implementation of a secure inventory reserve at some stations or by contracting with a medical supply company to restock supplies at firehouses.	SFFD Chief of Department	Will be implemented in the future	The Department is currently developing a plan to increase counts of medical supplies and establish satellite "caches" at various fire stations and other locations throughout the City to allow ambulance crews to re-stock their ambulances without having to travel back to Station 49.	Recommendation implemented	The Department has set up a "cache house" program, where supplies for ambulances are stored at eight fire stations placed throughout the City to allow ambulance crews to re-stock items without having to return to Station 49. In addition, the Department is currently testing a supply bin system at Station 49 to improve logistical efficiencies there for ambulances coming off and going on duty. The Department is also in the process of hiring three senior storekeepers to assist the Department's logistics bureau with supply restocking on ambulances.

(1) \*\*\*\* Response not required; Recommendation has been fully implemented or abandoned.



Status of the Recommendations  
by the Civil Grand Jury  
2014-15

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.3. That by July 2017, the Chief schedule sufficient new training academies so that all engines will have a paramedic on every crew.	SFFD Chief of Department	Requires further analysis	There are additional on-going costs to the Department to staff all engines with H-3 FF/PMs that are above and beyond what is incorporated in the Department's Operating budget. The Department is currently meeting its first ALS on-scene response time metrics Citywide, and is increasing staff in its H3 FF/PM tier through the hiring of Paramedics from within into the Fire Academy. The Department's goal is to achieve 32 daily ALS engines out of 44 by the end of the fiscal year. In addition, there is much debate within the health care industry as to whether an ALS-capable resource makes an impact on patient survival rate and quality of care when compared to a BLS resource. This is an issue that will continue to be analyzed, both at the Department and City levels.	Requires Further Analysis	This is an item that is still under analysis. However, in order to have a Paramedic on all engines, the Department would need to be allocated additional funding in its budget, beyond what has been previously allocated in current year budget. The Department's current goal is to staff 32 out of 44 engines per day with a Paramedic. The Department is nearing our goal of consistently staffing 32 ALS engines. The Department continues to meet its first paramedic on-scene ALS response times City-wide. Analysis of the impact of ALS resources on patient survival rate is on-going.
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.4. That the span of control for Rescue Captains be reduced in the next fiscal year, bringing the Department into compliance with Admin Code 2A.97	SFFD Chief of Department	Will be implemented in the future	The Department agrees that the span of control for EMS Captains should be reduced in the current fiscal year. This will be occurring with the revised supervision model at Station 49, allowing for the return of the Station 49 EMS Captain to field operations. This would restore the number of 24-hour EMS Captains working as medical supervisors to four.	Will Be Implemented in the Future	The Department is in the process of restoring its fourth Rescue Captain position in field operations. The Department was allocated funding in the current fiscal year budget for a new supervision model at Station 49, envisioned to be 12-hour shifts for greater accountability and efficiency. The Department is currently in negotiations with labor regarding the supervisory model at Station 49 which, when implemented, would restore the fourth Rescue Captain to the field.
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.5. That by December 2015 the Chief, using funds allocated in the next budget year, contract with an experienced consultant to initiate a strategic plan covering: full funding for equipment renewal; facilities maintenance and updates; communication technology; and training for both normal operations and disasters	SFFD Chief of Department	Will be implemented in the future	The issue of strategic planning has been a priority for the Department but its development and implementation had been hampered by the lack of fiscal resources. In the new fiscal year's budget, the Department was allocated additional personnel to enhance the Department's planning capabilities. The Chief has recently formed the Department's Strategic Planning Committee, and this committee had its initial kick-off meeting last month. However, the caveat is that, even with a thorough and robust strategic plan, there is no guarantee that funding will be available to fully support the plan. This is an issue that the Department has been struggling with in the past (such as with the Department's existing vehicle replacement plan) and will continue to do so in the future, even with the improved economic conditions.	Will Be Implemented in the Future	Rather than contract with a consultant, in the fall of 2015, the Department convened a Strategic Planning Committee, comprised of members from various ranks and Divisions, as well as representation from employee groups, labor, private sector, other government agencies, and retired members to develop a Strategic Plan. The Strategic Planning Committee has been meeting regularly and is in the process of compiling its draft document, with the hopes of publishing a completed Strategic Plan by the Fall of 2016. The plan will highlight many of the needs addressed in the Civil Grand Jury Report, including training, staffing, equipment, facilities, and IT.
2014-15	San Francisco Fire Department What Does the Future Hold?	R1.5. That by December 2015 the Chief, using funds allocated in the next budget year, contract with an experienced consultant to initiate a strategic plan covering: full funding for equipment renewal; facilities maintenance and updates; communication technology; and training for both normal operations and disasters	SFFD Commission	Will be implemented in the future	The issue of strategic planning has been a priority for the Department, but its development and implementation had been hampered by the lack of fiscal resources. In the new fiscal year's budget, the Department was allocated additional personnel to enhance the Department's planning capabilities. The Chief has recently formed the Department's Strategic Planning Committee, and this committee had its initial kick-off meeting in July and follow-up meetings with stakeholder groups are occurring. However, the caveat is that, even with a thorough and robust strategic plan, there is no guarantee that funding will be available to fully support the plan. This is an issue that the Department has been struggling with in the past (such as with the Department's existing vehicle replacement plan) and will continue to do so in the future, even with the improved economic conditions.	Will Be Implemented in the Future	As mentioned in the most recent response to the Grand Jury report, the Chief of Department formed a Strategic Planning Committee in 2015, comprised of members of a variety of ranks and job functions in the Department as well as representatives from the Fire Commission, labor and employee groups, retired members, the private sector, and other Departments. This group is currently preparing a final draft of the plan that will be brought to the Fire Commission for initial review and discussion before being formally vetted by the Commission. The Department's Strategic Plan will be added to the agenda at a future Commission meeting to discuss and review the plan in a formal public forum, with input, comments and recommendations from the Fire Commission to be incorporated into the report. The draft is anticipated to be available for review and consideration by the Commission in late summer 2016. The Strategic Plan will cover all the topics addressed in the Civil Grand Jury recommendations, in addition to Health and Wellness, Community Programs and Partnerships, Infrastructure, and Recruitment/Staffing.
2014-15	San Francisco Fire Department What Does the Future Hold?	R2.1. That the Chief review the current agreement with TIDA to determine whether it is possible to amend the agreement so as to retain the existing location of the training facility.	SFFD Chief of Department	Recommendation implemented	The Department believes that the best option would be to retain the current Treasure Island Training facility. However, this will take many discussions and coordination with TIDA, the Mayor's Office, and a number of other entities, to possibly implement. If a decision to retain the facility is mutually reached, the Department would then begin developing plans to upgrade the facility and potentially have it used as a regional facility to generate revenue for the Department.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R2.2. That TIDA review its current agreement with SFFD to determine whether it is possible to amend the agreement so as to retain the existing location of the training facility.	Treasure Island Director	Will not be implemented because it is not warranted or reasonable	The continued use of the existing fire training center on Treasure Island is not constrained by the agreement between the SFFD and TIDA, but is limited by the development plans for Treasure Island and Yerba Buena Island. The development plan and FEIR for the Treasure Island and Yerba Buena Island do not include the continued existence of the fire training center or a replacement facility, and those uses are not consistent with the adopted land use plan. On May 29, 2015, the Navy transferred 290 acres on Yerba Buena Island and Treasure Island to TIDA and development activities are expected to begin before the end of the year. The initial areas of development will be concentrated on Yerba Buena Island and the southwest corner of Treasure Island. The fire training center is located in what will be the fourth and final phase of development. Based on the current schedule for development, the fire training center should be able to continue operations for seven years before it would need to be vacated for development to proceed.	**	
2014-15	San Francisco Fire Department What Does the Future Hold?	R2.3 That while Recommendations 2.1 and 2.2 are being explored, the Chief and the Fire Commission determine an alternate site for the training center since, if an already City-owned site is not adequate to serve as a training center, purchase of a new site will be more than difficult in the current real estate market.	SFFD Chief of Department	Recommendation implemented	A request for funds has been submitted to Capital Planning for the construction of a new training facility. The request continues to be deferred due to the large cost of the project. Given the economic and construction climate in the City currently, it is highly unlikely that the Department would find a suitable space large enough to accommodate the needs of the Training Facility. Moreover, the chances of passing an EIR with the Live Burn portion of the facility would likewise be slim. Even if that theoretical plot of land could be found and the Department would receive a favorable EIR, the acquisition costs would be astronomical. There were discussions many years ago about allocating a portion of the new Hunters Point development for a new facility, but it does not appear that this was included in the current plans for the shipyard.	**	

(1) \*\*\*\* Response not required: Recommendation has been fully implemented or abandoned.

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2014-15	San Francisco Fire Department What Does the Future Hold?	R2.3 That while Recommendations 2.1 and 2.2 are being explored, the Chief and the Fire Commission determine an alternate site for the training center since, if an already City-owned site is not adequate to serve as a training center, purchase of a new site will be more than difficult in the current real estate market.	SFFD Commission	Will be implemented in the future	The Commission agrees that it is important for the Department to retain a first-class training facility. The Commission has been assured that the Department has reviewed the agreement with TIDA. Further, the Commission is aware that the Department would like to retain the location of its training facility on Treasure Island, but it does not have the authority to require TIDA to amend the agreement. The Department has advised the Commission that it is unlikely that TIDA will take any steps to remove or dismantle the existing training facility within the next seven years, at the earliest. Nevertheless, the Department has already advised the City's Capital Planning Committee that an alternate site might be necessary in the event that TIDA proposes another use for the current training site. The Commission will monitor TIDA's plans as they develop.	Will Be Implemented in the Future	The Commission believes it is crucial for the Department to develop a long term site for its training facility, and will continue to advocate for this project. A new training facility is one of the top priorities for the Department over the next five to ten years. The Commission continues to work with the Department in its discussions with TIDA and the developer with regards to the current training site on Treasure Island, as well as with the Department of Real Estate and Capital Planning to evaluate the potential of new sites for a training academy to be located. The Commission will continually ask for updates on the status of both the ability to stay in the current training facility as well as the potential for a new site. The Department has initiated a needs assessment for a training facility with the Department of Public Works, and will report back to the Commission when that has been completed. In the meantime, the Commission has been working with the Department on its efforts to get the Department's current training site accredited by the State of California, for which the process is nearing completion. This accreditation will expand the number of trainings able to be held at the Department's training facility, opening up the site to our regional partners to host a number of classes and trainings. The ability to serve as an accredited regional training site would have a number of benefits for the Department, and is a big consideration in the planning process for the new training division site as the Commission and Fire Department work towards identifying a potential new location.
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R1. The Mayor should prioritize the network infrastructure and fully fund the required investment in this foundational platform.	Mayor	Recommendation implemented	As described in the response to Finding 1, the City has made significant commitments to strengthening the City's network infrastructure through DT's "Fix the Network" project and other citywide efforts around maintenance, disaster recovery, and data center consolidation. As evidence of this commitment, the "Fix the Network" project was highlighted as high priority into the most recent ICT plan and funded with \$4.3 million in the Mayor's FY 2015-16 and 2016-17 budget- the largest single allocation from COIT's annual project allocation. Additionally, funding for DT's operational budget has continued to grow to support the ongoing capacity of the department to prioritize this project and support its ongoing maintenance.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R1. The Mayor should prioritize the network infrastructure and fully fund the required investment in this foundational platform.	Board of Supervisors	Recommendation implemented	As the Mayor's response indicates, "the 'Fix the Network' project was highlighted as high priority into the most recent ICT plan and funded with \$4.3 million in the Mayor's FYs 2015-2016 and 2016-2017 budget – the largest single allocation from COIT's [Committee on Information Technology] annual project allocation.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R2. The Mayor and Board of Supervisors should require a six-month and twelve-month report on the status of the DT reorganization.	Mayor Department of Technology	Will not be implemented because it is not warranted or reasonable	Through the annual budget process, the Mayor and the Board of Supervisors have reviewed the Department of Technology's position changes and new organizational structure. Any further changes will be reviewed as part of future budget cycles.  Additionally, in September the department began releasing a monthly project status and key performance indicator report for department heads, including measures on services performed at project levels, network uptime, and other yet-to-be determined metrics. The report will reflect the impacts of the reorganization on service delivery. It will be summarized and presented at public COIT meetings.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R2. The Mayor and Board of Supervisors should require a six-month and twelve-month report on the status of the DT reorganization.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	While any individual supervisor can call a hearing on this topic at any time, the Board of Supervisors cannot specifically predict if or when one may do so. The Board President sits on COIT, which will be receiving updates on DT's progress. And as the Department's response indicates, "in September [DT] began releasing a monthly project status and key performance indicator report for department heads.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R3. A user satisfaction survey should be sent to all DT clients, before the end of 2015 and later in six months after the reorganization, to assess whether the new accountability structure is making a difference for clients.	Mayor Department of Technology	Will be implemented in the future	DT agrees with the recommendation and will implement both survey recommendations in the proposed timeline - an initial survey before the end of the CY 2015 and follow-up survey by the end of FY 2015-16.	Recommendation implemented	DT administered a survey from December 2015-January 2016 to 430 personnel across all city departments. 10%, or 45 City personnel, responded to the survey over the four-week window. The survey solicited feedback regarding DT services, likelihood of recommending DT services, and suggestions for improving DT services.  Survey respondents suggested that DT improve in the following areas: communication, personnel shortages, delivery and response, and increasing skills and training.  DT is utilizing this survey as a baseline for improvement. A second survey will be conducted during June, 2016 that aims to build from this analysis.

(1) \*\* Response not required. Recommendation has been fully implemented or abandoned.

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R3. A user satisfaction survey should be sent to all DT clients, before the end of 2015 and later in six months after the reorganization, to assess whether the new accountability structure is making a difference for clients.	Board of Supervisors	Recommendation implemented	The Department of Technology sent a user satisfaction survey to all clients in December 2015.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R4. The Office of the Controller should develop the skills inventory capability in the eMerge PeopleSoft system to update IT employee skills by the end of FY15-16	Mayor Department of Technology Office of the Controller	Will be implemented in the future	<p>The Office of the Controller agrees with this recommendation. The Office of the Controller is advancing this capability through the eMerge PeopleSoft system which includes functionality to house a skills inventory and link those skills to job classifications, positions, and employees- successful implementation is dependent on citywide departmental engagement and adoption. At the center of this functionality is the use of "competencies," which in PeopleSoft are used to define skills and levels of proficiency expected for job classifications and positions. By properly using the competency and performance appraisal features in the performance module in PeopleSoft, the City could develop skills inventory capability.</p> <p>The current ePerformance Pilot Project is implementing competency and skills assessment for the FY 2015- 16 performance appraisal period. The pilot project includes 41 job classifications and 595 employees at the Airport Commission, Controller's Office, Department of Public Health, and Public Utilities Commission. The Controller's Office and its eMerge Division are soliciting additional departments to leverage the ePerformance module for FY 2016-17 performance appraisals. The Office of the Controller will work with the Department of Human Resources and Department of Technology toward citywide deployment after the pilot is successfully concluded.</p> <p>The Office of the Controller is implementing this recommendation by working closely with the Department of Human Resources and the Department of Technology to implement an expedited IT hiring pilot program. The expedited IT hiring pilot program includes the tracking of competencies, in eMerge PeopleSoft, at the time of hire. The tracking of competencies at the time of hire will enable the City to begin to develop a validated, IT skills inventory within PeopleSoft.</p> <p>In addition, the Office of the Controller is implementing an ePerformance Pilot Project, which includes implementing competency and skills assessment for 41 job classifications and 595 employees at the Airport Commission, Controller's Office, Department of Public Health, and Public Utilities Commission.</p> <p>The Office of the Controller will work with the Department of Human Resources and Department of Technology toward citywide deployment after the pilot is successfully concluded.</p>	Recommendation implemented	<p>The Office of the Controller is implementing this recommendation by working closely with the Department of Human Resources and the Department of Technology to implement an expedited IT hiring pilot program. The expedited IT hiring pilot program includes the tracking of competencies, in eMerge PeopleSoft, at the time of hire. The tracking of competencies at the time of hire will enable the City to begin to develop a validated, IT skills inventory within PeopleSoft.</p> <p>DHR implemented improvements in the response to R5 below.</p>
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R4. The Office of the Controller should develop the skills inventory capability in the eMerge PeopleSoft system to update IT employee skills by the end of FY15-16	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	the Board of Supervisors does not have authority to implement this recommendation. Although the Board of Supervisors does not have the authority to implement the recommendation, the Board requests the Department of Technology and the Department of Human Resources to provide a report to the Board with their progress by the end of the calendar year.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R5. DHR should publicly present the results of its pilot IT hiring process to the Mayor and the Board of Supervisors before the end of CY2015	Mayor Department of Human Resources	Will be implemented in the future	The Department of Human Resources is currently expanding its IT hiring pilot, in cooperation with the Department of Technology, the Controller's Office and other City departments. The results will not be ready for presentation at the end of calendar year 2015, but the department projects they will be available by the end of FY 2015-16 and will present these findings to the public COIT oversight body, which includes representatives of both the Mayor and the Board of Supervisors.	Recommendation implemented	<p>The Department of Human Resources (DHR) and Department of Technology presented the TechHire Project to COIT, the City's technology policy and oversight body, which includes representatives of both the Mayor and the Board of Supervisors, in November of 2015. DHR will give COIT a project update before the close of FY 2015-16.</p> <p>DHR additionally implemented an internal TechHire communications program to ensure City stakeholders are continuously updated on the project. DHR has done in person sessions about TechHire at CIO forums, HR professionals meetings, and with individual departments, and began providing monthly video updates to stakeholders in March of 2016.</p>
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R5. DHR should publicly present the results of its pilot IT hiring process to the Mayor and the Board of Supervisors before the end of CY2015	Board of Supervisors	Recommendation implemented	The Department of Human Resources presented the results of its expedited IT hiring project in October 2015.	**	

(1) \*\*\*\* Response not required: Recommendation has been fully implemented or abandoned.

Status of the Recommendations  
by the Civil Grand Jury  
2014-15

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R6. DHR should issue a monthly written report to the Mayor and Board of Supervisors showing the number of open IT positions at the beginning of the month, the number of new IT position requisitions received in the current month, the number of IT positions filled in the current month, the number of open IT positions at the end of the month, and the average number of days required to fill the IT positions closed in the current month.	Mayor Department of Human Resources	Will not be implemented because it is not warranted or reasonable	DHR regularly reports to the Committee on Information Technology (COIT) on the status of the IT Hiring Group's progress, so further reporting is not operationally beneficial at this time. For context, current results reflect that approval of a department's request to fill a position, a process managed by DHR and the Mayor's Office, takes an average of four days. Other parts of the hiring process are managed at the department level, where extended periods of time between when a position goes vacant and when a department submits a request a hire occurs, based on the department's immediate priorities, needs, and goals. There may also be periods of time between when the request to hire is approved and when a person is actually hired, due to circumstances such as lack of an adequate candidate pool. Without any context on where a vacancy actually is in the hiring process, and departmental insight into why a position remains vacant, a monthly set of data will not shed any light on why an IT job remains unfilled. DHR and the Mayor's Office are pursuing numerous, potentially impactful improvements to processes and systems that will create more transparency for hiring in general.  Additionally, DHR regularly reports to the Civil Service Commission on matters under its jurisdiction. Annual reports to the Civil Service Commission, which are relevant to IT hiring, include: • Appointments Exempt from Civil Service under the 1996 Charter Section 10.104 - 1 through 10.104-12 • Appointments Exempt from Civil Service under the 1996 Charter Section 10.104 - Categories 16 through 18 • Position-Based Testing Program • Class Consolidation	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R6. DHR should issue a monthly written report to the Mayor and Board of Supervisors showing the number of open IT positions at the beginning of the month, the number of new IT position requisitions received in the current month, the number of IT positions filled in the current month, the number of open IT positions at the end of the month, and the average number of days required to fill the IT positions closed in the current month.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	Implementation of this recommendation is largely beyond the jurisdiction of the Board of Supervisors. While any individual supervisor could call a hearing on this topic or request a report at any time, the Board of Supervisors cannot specifically predict if or when one may do so. Moreover, reports with this level of granularity and frequency would likely be excessive for the Board's purposes.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R7. DT should launch a taskforce to recommend options for recruiting and hiring IT staff, particularly on an "at will" basis.	Mayor Department of Technology	Recommendation implemented	In its original report, the Civil Grand Jury recommended that the Mayor's Office and DHR convene a taskforce to develop methods to speed up the process for hiring IT personnel in the absence of making all IT positions exempt, which would require a Charter change. The taskforce was convened and included DT, DHR, the Mayor's Office, the Controller's Office, other City departments, and IFPTE Local 21. As noted in response to recommendations five and six, this group developed and implemented interim strategies to improve hiring, including a pilot online, on-demand exam. The pilot exam was successful, but only impacted one portion of the hiring process. As noted in response to finding two, this group is implementing a comprehensive plan to improve IT hiring.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R7. DT should launch a taskforce to recommend options for recruiting and hiring IT staff, particularly on an "at will" basis.	Board of Supervisors	Recommendation implemented	As DT's response indicates, this task force was developed in response to the Civil Grand Jury's previous report. The Board of Supervisors thanks the Civil Grand Jury members for their contributions and role in improving city-wide IT.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R8. The Mayor and Board of Supervisors should calendar an interim review of taskforce proposals within six months of its convening.	Mayor Department of Technology	Recommendation implemented	The taskforce, described in the response to Recommendation 7, presented to the public COIT body in their September 19, 2013 meeting and updated the group on January 29, 2015. The taskforce will continue to present updates and proposals to the public COIT body in the future.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R8. The Mayor and Board of Supervisors should calendar an interim review of taskforce proposals within six months of its convening.	Board of Supervisors	Recommendation implemented	The task force has and will again present to COIT, a body on which the President of the Board of Supervisors and many other City leaders sit.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R9. DT needs a recruiter dedicated exclusively to DT and other IT units' staffing needs.	Mayor Department of Technology	Will be implemented in the future	As part of the larger departmental reorganization, DT has prioritized existing resources in the current fiscal year to support the existing efforts to improve IT recruitment through DHR. The department is in the process of identifying the appropriate staff position to focus on expedited outreach and hiring for IT positions. The ongoing nature of this position will be re-evaluated at the fiscal year end as part of the larger taskforce planning and recommendations for improving the City's IT hiring.	Recommendation Implemented	DT hired an IT Recruitment and Retention Manager in October 2015. Since October 2015, the manager has implemented a proactive recruitment approach resulting in increased applicants, filled vacancies and investment in existing staff via professional development. For FY15/16, DT has hired and promoted 93 staff members, brought down vacancy rate to 14%, reduced time to hire, and increased diversity rates.  The IT Recruitment and Retention Manager partners with DHR on the tech hire project to improve the way the City hires IT personnel and works with other departments (DPH, DPW, Public Library, Controllers Office, 311, etc) with their IT and executive recruiting efforts.

(1) \*\*\*\* Response not required; Recommendation has been fully implemented or abandoned.

Status of the Recommendations  
by the Civil Grand Jury  
2014-15

CGJ Year	Report Title	Recommendation	Response Required	Original 2015 Response	Original 2015 Response Text	2016 Response <sup>(1)</sup>	2016 Response Text
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R9. DT needs a recruiter dedicated exclusively to DT and other IT units' staffing needs.	Board of Supervisors	Will not be implemented because it is not warranted or reasonable	This is largely beyond the jurisdiction of the Board of Supervisors, though the Board will support DT in its efforts and evaluate any possible staffing requests during the annual budget process.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R10. DT needs to hire business analyst talent for the taskforce, new reorganization, and new initiatives.	Mayor Department of Technology	Recommendation implemented	As described in the response to Finding 4, DT created a Business Engagement Office as part of its reorganization. The purpose of the Business Engagement Office is to utilize best practices for client engagement, service delivery, and vendor relationship management. The Office is currently staffed by an existing staff member with budget approval to add an additional staff member in the current fiscal year. The department intends to continually evaluate the needs of the team and consider adding additional resources in coming fiscal years.	**	
2014-15	Unfinished Business: A Continuity Report on the 2011-12 Report, Déjà Vu All Over Again	R10. DT needs to hire business analyst talent for the taskforce, new reorganization, and new initiatives.	Board of Supervisors	Recommendation implemented	This is largely beyond the jurisdiction of the Board of Supervisors, but as the Department's response indicates, DT has "created a Business Engagement Office as part of its reorganization" that is working on these efforts and has funding for additional staff.	**	

(1) \*\*\*\*\* Response not required; Recommendation has been fully implemented or abandoned.

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**From:** Reports, Controller (CON)  
**Sent:** Tuesday, October 04, 2016 4:12 PM  
**To:** Calvillo, Angela (BOS); Gosiengfiao, Rachel (BOS); BOS-Supervisors; BOS-Legislative Aides; Kawa, Steve (MYR); Howard, Kate (MYR); Steeves, Asja (CON); SF Docs (LIB); CON-EVERYONE; Ivar Satero (AIR); Leo Fermin (AIR); Wallace Tang (AIR); Cheryl Nashir (AIR); Nanette Hendrickson (AIR); Jean Caramatti (AIR); Kevin Kone (AIR); sjohnson@mgocpa.com; jason@pelicangroup.com  
**Subject:** Issued: Airport Commission: Pelican Communications, Inc., Correctly Reported Its Revenues and Paid Rent for 2013 and 2014 but Did Not Provide the Required Certified Financial Statements

The City and County of San Francisco's Airport Commission (Airport) coordinates with the Office of the Controller's City Services Auditor Division (CSA) to conduct periodic compliance audits of the Airport's tenants and airlines. CSA engaged Macias Gini & O'Connell LLP (MGO) to audit tenants and airlines at the Airport to determine whether they complied with the reporting, payment, and selected other provisions of their agreements with the Airport.

CSA presents the report of MGO's audit of Pelican Communications, Inc., (Pelican). The audit found that Pelican correctly reported \$281,288 of gross revenues and correctly paid \$48,501 of rent due to the Airport. However, Pelican did not submit the certified financial statements the lease requires.

To view the full report, please visit our website at: <http://openbook.sfgov.org/webreports/details3.aspx?id=2364>

This is a send-only e-mail address. For questions about the report, please contact Director of City Audits Tonia Lediju at Tonia.Lediju@sfgov.org or 415-554-5393 or the CSA Audits Unit at 415-554-7469.

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# City and County of San Francisco

Office of the Controller – City Services Auditor

## **AIRPORT COMMISSION:**

**Pelican Communications, Inc.,  
Correctly Reported Its Revenues  
and Paid Rent for 2013 and 2014 but  
Did Not Provide the Required  
Certified Financial Statements**



October 4, 2016

**OFFICE OF THE CONTROLLER  
CITY SERVICES AUDITOR**

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

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

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

For questions 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 Audit Team: Winnie Woo, Associate Auditor

Audit Consultants: Macias Gini & O'Connell LLP (MGO)





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

**Ben Rosenfield**  
**Controller**

**Todd Rydstrom**  
**Deputy Controller**

October 4, 2016

San Francisco Airport Commission  
San Francisco International Airport  
P.O. Box 8097  
San Francisco, CA 94128-8097

Ivar Satero, Airport Director  
San Francisco International Airport  
P.O. Box 8097  
San Francisco, CA 94128-8097

Dear Commission President, Commissioners, and Mr. Satero:

The City and County of San Francisco's Airport Commission (Airport) coordinates with the Office of the Controller's City Services Auditor Division (CSA) to conduct periodic compliance audits of Airport tenants and airlines. CSA engaged Macias Gini & O'Connell LLP (MGO) to audit the Airport's tenants to determine whether they complied with the reporting, payment, and other selected provisions of their leases.

CSA presents the attached report for the compliance audit of Pelican Communications, Inc., (Pelican) prepared by MGO.

**Reporting Period:** January 1, 2013, through December 31, 2014

**Rent Paid:** \$48,501

**Results:**

Pelican correctly reported \$281,288 of gross revenues and paid \$48,501 of rent due to the Airport. However Pelican did not submit the certified financial statements required by the lease agreement.

The Airport's response is attached to this report. Pelican no longer operates at the Airport and, although requested by MGO, did not provide a written response to the report.

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

Respectfully,

Tonia Lediju  
Director of City Audits

Attachment

cc: Board of Supervisors  
Budget Analyst  
Citizens Audit Review Board  
City Attorney  
Civil Grand Jury  
Mayor  
Public Library

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

**PERFORMANCE AUDIT REPORT**

Pelican Communications, Inc.

January 1, 2013 through December 31, 2014



Certified  
Public  
Accountants



Certified  
Public  
Accountants

Sacramento  
Walnut Creek  
San Francisco  
Oakland  
Los Angeles  
Century City  
Encino  
Newport Beach  
San Diego

## Performance Audit Report

Director of City Audits  
City and County of San Francisco, California

Macias Gini & O'Connell LLP (MGO) presents its report concerning the performance audit of Pelican Communications, Inc., (Tenant) as follows:

### *Background*

The Tenant has one lease agreement with the Airport Commission of the City and County of San Francisco (Commission). Lease number 09-0229 was for the Tenant to provide payphone, pre-paid calling cards and coin-changing units throughout the Airport Terminal Complex, Airport parking facilities, AirTran stations, and surrounding the San Francisco International Airport (SFO). The agreement requires the Tenant to submit to the Airport a monthly report showing its sales revenue and rent due.

For the period of our performance audit, January 1, 2013 through December 31, 2014, the lease required payment percentage rent thresholds as outlined below.

<b>Lease:</b>	<b>09-0229</b>
<b>Reporting periods:</b>	1/1/2013-12/31/2014
<b>Lease Term:</b>	January 28, 2010 to December 31, 2013 Extended to December 31, 2015
<b>Percentage rent</b>	Public Payphone - 20% Prepaid Phone Cards- 10%

### *Objective and Scope*

The objective of this performance audit was to determine whether the Tenant was in substantial compliance with the reporting, payment, and other rent related provisions of its lease with the Commission. To meet the objective of our performance audit and based upon the provisions of the City and County of San Francisco contract number P-500 (5-10) dated March 1, 2013, between MGO and the City and County of San Francisco, and per Appendix A therein, we verified that revenues for the audit period were reported to the Airport in accordance with the lease provisions, and that such amounts agreed with the underlying accounting records; identified and reported the amount and cause of any significant error (over or under) in reporting together with the impact on rent payable to the Airport; and identified and reported any recommendations to improve record keeping and reporting processes of the Tenant relative to its ability to comply with lease provisions.

This audit and the resulting report relates only to the sales revenue and rents reported by the Tenant, and does not extend to any other performance or financial audits of either the Commission or the Tenant taken as a whole. Management is responsible for designing, implementing, and maintaining internal controls relevant to the preparation of and the fair presentation of the financial statements. This performance audit did not include a review or test of internal controls.

*Methodology*

To meet the objectives of our performance audit, we performed the following procedures: reviewed the applicable terms of the lease and the adequacy of the Tenant procedures and internal controls for collecting, recording, summarizing and reporting its gross revenues and calculating its payments to the Airport; selected and tested two sample months for each contract year and three sample days for each sample month selected per guidelines provided by the City; recalculated monthly rent due; and verified the timeliness of reporting revenues and rent and submitting rent payments to the Airport.

We conducted this performance audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States (generally accepted government auditing standards.) Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and recommendations based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our audit results based on our audit objective.

*Audit Results*

Based on the results of our performance audit for the period from January 1, 2013 through December 31, 2014, the Tenant correctly reported gross revenues of \$281,288 and paid percentage rent of \$48,501 to the Airport.

Gross revenues and percentage rent are defined in the lease between the Tenant and the City and County of San Francisco. The table below shows the Tenant reported total gross revenue and percentage rent paid to the Airport for the lease under audit.

**Sales Revenues and Percentage Rent Paid  
January 1, 2013 through December 31, 2014  
Lease No. 09-0229**

Lease Period	Prepaid Phone Card Revenue	Public Payphone Revenue	Total Revenue Reported by Tenant	Calculated	Rent Paid	(Over)Un der Payment
				Percentage Rent Stipulated by Lease	per Airport Payment Records	
				A	B	A-B
January 1, 2013 through December 31, 2013	\$ 39,403	\$ 108,760	\$ 148,163	\$ 25,692	\$ 25,692	\$ -
January 1, 2014 through December 31, 2014	38,156	94,969	133,125	22,809	22,809	-
			<u>\$ 281,288</u>	<u>\$ 48,501</u>	<u>\$ 48,501</u>	<u>\$ -</u>

*Finding 2015-01- Tenant did not provide the required financial statements certified by a Certified Public Accountant to the Airport for the audit period*

According to Section 4.5 to the Agreement, the tenant “within ninety days after the end of each lease year. Tenant shall submit to Director an unqualified year-end financial report certified by a Certified Public Accountant (CPA) showing Gross Revenues achieved with respective to the prior year Lease Year”. We examined the Independent Accountant’s Compilation Report for calendar years 2013 and 2014 issued by Johnston, Gremaux & Ross, LLP on August 19, 2014 and May 8, 2015, respectively.

The CPA reports for both years were compilations of financial statements and stated “we have not audited or reviewed the accompanying financial statements and, or accordingly, do not express an opinion or provide any assurance about whether the financial statements are in accordance with the income tax basis of accounting”. The compilation report goes on to further state that the CPA’s responsibility is to “conduct the compilation in accordance with Statements on Standards for Accounting and Review Services (SSARS) issued by the AICPA”.

Under SSARS standards, a compilation engagement, which is an attest engagement but is not an assurance engagement, consists of the accountant assisting management in the presentation of financial statements. Professional standards (SSARS) do not require the accountant to make inquiries or perform other procedures to verify, corroborate, or review the information supplied by the entity. For this reason, the accountant neither obtains nor offers any form of assurance on the content of the financial statements. Thus, the financial statements submitted by the Tenant to the Airport for calendar years 2013 and 2014 do not satisfy the lease requirement of assurance needed from a CPA. In discussions with the Airport, the cause for the Tenant not being in compliance with Section 4.5 is that it was a mutual misunderstanding between Tenant and Airport, that the compilation report satisfied the unqualified opinion required in the Agreement. However, compilation reports provide no assurance and should not be construed as providing an unqualified opinion on the financial statements. The Tenant’s CPA further disclosed that it did not audit or review the statements and provides no assurance, which exposes the risk of material departures from the applicable financial reporting framework. Under the SSARS standards, a compilation engagement provides no assurance that the financial information and calculation methodology is appropriate.

The Tenant also submitted its compilation report, intended as a certified financial report, late to the Airport. According to Section 4.5 to the Agreement, the tenant “within ninety days after the end of each lease year, shall submit to Director an unqualified year-end financial report certified by a CPA showing Gross Revenues achieved with respect to the prior year Lease Year”. The Tenant should submit the financial statements for 2013 and 2014 before 90 days after December 31<sup>st</sup> or March 31<sup>st</sup> of the following year. The reports were dated on August 19, 2014 and May 8, 2015, respectively and subsequently submitted to the Airport. According to the Airport, the delay was caused by the focus on Amending the Agreement in August 7, 2013 and they did not track the timeliness on the submission of these reports.

*Recommendation- 2015-01*

The Airport should comply with the lease agreement and require the Tenant to submit Financial Statements certified by a Certified Public Accountant. Airport should develop procedures to require its review of the CPA’s report to ensure that it conforms to the required type of report necessary to comply with Section 4.5.

*Recommendation- 2015-02*

The Airport should require the Tenant to submit the required certified financial reports within 90 days after the end of each lease year. Airport should develop procedures to require its review of the CPA’s report to ensure that it is received before the due date to comply with Section 4.5.

*Additional Notes*

On August 26, 2016, MGO was informed by Airport staff that Pelican Communications no longer operates at the Airport. Its lease agreement expired on December 31, 2015 and a six-month holdover period ended on June 30, 2016. Additionally, on August 26, 2016 MGO requested a response from the Tenant regarding this performance audit report, however, as of September 8, 2016, no response was provided.

*Conclusion*

Based upon the performance audit procedures performed and the results obtained, we have met our audit objective. We conducted this performance audit in accordance with the provisions of our contract, as outlined in the objective and scope section above, and in accordance with generally accepted government auditing standards.

This performance audit did not constitute an audit of financial statements in accordance with *Government Auditing Standards* or auditing standards generally accepted in the United States of America. MGO was not engaged to, and did not, render an opinion on the Tenant's internal controls over financial reporting or over the Tenant's financial management systems.

This report is intended solely for the information and use of the Tenant, the Airport and the City and County of San Francisco, and is not intended to be and should not be used by anyone other than these specified parties.

Macias Gini & O'Connell LLP

Walnut Creek, California  
September 8, 2016



San Francisco International Airport

August 26, 2016

Ms. Tonia Lediju  
Director of Audits  
Office of the Controller  
City Services Auditor Division  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place, Room 477  
San Francisco, CA 94102

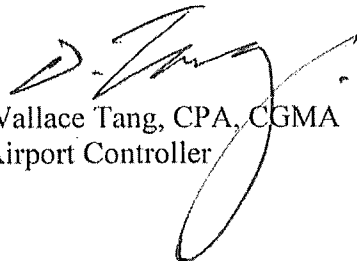
Subject: Performance Audit of Pelican Communications, Inc. Lease No. 09-0229


Dear Ms. Lediju:

Attached is the completed Audit Recommendation & Response Form regarding the performance audit of Pelican Communications, Inc. Please note Pelican Communications no longer operates at SFO. Its lease agreement expired on December 31, 2015 and a six-month holdover period ended on June 30, 2016.

If you have any questions, please feel free to call us at 650.821.2850 (Wallace) or 650.821.4500 (Cheryl).

Very truly yours,

  
Wallace Tang, CPA, CGMA  
Airport Controller

  
Cheryl Nashir  
Director  
Revenue Development and Management

Attachment

cc: Ivar Satero  
Jeff Littlefield  
Leo Fermin  
Winnie Woo – CSA  
Scott Johnson – MGO

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE  
MAYOR

LARRY MAZZOLA  
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VICE PRESIDENT

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PETER A. STERN

IVAR C. SATERO  
AIRPORT DIRECTOR



**City Services Auditor Division  
Recommendation and Response Form**

**Audit Subject:** Pelican Communications, Inc.

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.

**AUDIT RECOMMENDATIONS AND RESPONSES**

Recommendation	Responsible Agency	Response
<p>1. The Airport should comply with the lease agreement and require the Tenant to submit Financial Statements certified by a Certified Public Accountant. Airport should develop procedures to require its review of the CPA's report to ensure that it conforms to the required type of report necessary to comply with Section 4.5.</p>	<p>Airport</p>	<p>Partially concur, Pelican Communications Annual Reports were certified by a Certified Public Accountant. Airport will work with Accounting Department to ensure that CPA reports comply with the "Annual Report and Adjustment" Section of the Lease.</p>
<p>2. The Airport should require the Tenant to submit the required certified financial reports within 90 days after the end of each lease year. Airport should develop procedures to require its review of the CPA's report to ensure that it is received before the due date to comply with Section 4.5.</p>	<p>Airport</p>	<p>Concur. Revenue Development and Management staff established a procedure consisting of advance written notice to tenants of its annual report submittal. It will continue to remind tenants to submit annual statements within 90 days after the end of each lease year. The Airport also supplemented its procedure with phone calls or emails to tenants which are delinquent and imposes late fees.</p>

---

**From:** Gosiengfiao, Rachel (BOS)  
**Sent:** Wednesday, September 28, 2016 2:19 PM  
**To:** BOS-Supervisors  
**Subject:** FW: SEIU Labor Management Committee on Health & Safety & Workers' Compensation Report to the BOS  
**Attachments:** Report to Board of Supervisors.2016.pdf

**From:** Buick, Jeanne (HRD)  
**Sent:** Wednesday, September 28, 2016 2:08 PM  
**To:** Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>  
**Cc:** Gosiengfiao, Rachel (BOS) <rachel.gosiengfiao@sfgov.org>; Sugarman, Peggy (HRD) <peggy.sugarman@sfgov.org>  
**Subject:** SEIU Labor Management Committee on Health & Safety & Workers' Compensation Report to the BOS

Dear Clerk of the Board,

Can you kindly please forward the attached report to the Board of Supervisors?

Regards,

Jeanne Buick  
Executive Assistant to the Director  
Department of Human Resources  
(415) 557-4815

---

**From:** Sugarman, Peggy (HRD)  
**Sent:** Wednesday, September 28, 2016 1:36 PM  
**To:** Buick, Jeanne (HRD)  
**Cc:** Sean T Dryden ([seantdryden@gmail.com](mailto:seantdryden@gmail.com)); Norman Ten ([norman.ten@seiu1021.org](mailto:norman.ten@seiu1021.org))  
**Subject:** SEIU Labor Management Committee on Health & Safety & Workers' Compensation Report to the BOS

Hi Jeanne,

SEIU has approved the attached report of the committee's work. Can you send it to the BOS for us?

Thank you,  
Peggy

PEGGY SUGARMAN, WORKERS' COMPENSATION DIRECTOR  
CCSF DEPARTMENT OF HUMAN RESOURCES  
(415) 701-5848

**NOTICE TO RECIPIENT:** This communication contains information which is confidential. If you are not the intended recipient of this e-mail, you are prohibited from sharing, copying, disclosing or using its contents. If you have received this e-mail in error, please notify the sender immediately by reply e-mail and permanently delete this e-mail and any attachments.



Edwin M. Lee  
Mayor

Micki Callahan  
Human Resources Director

**DATE:** September 28, 2016

**TO:** Honorable President London Breed, San Francisco Board of Supervisors  
Honorable Members of the Board

**FROM:** Peggy Sugarman, Workers' Compensation Division Director  
Joint SEIU Labor-Management Occupational Health and Safety and Workers'  
Compensation Committee Co-Chair  
Representing Management

Sean Dryden, Department of Emergency Communications  
Joint SEIU Labor-Management Occupational Health and Safety and Workers'  
Compensation Committee Co-Chair  
Representing SEIU

**RE:** Report to the San Francisco Board of Supervisors on the Activities of the Joint  
SEIU Labor-Management Occupational Health and Safety and Workers'  
Compensation Committee

The Memorandum of Understanding between the City & County of San Francisco and the Service Employees International Union contains a provision for a Joint Labor-Management Occupational Health and Safety and Workers' Compensation Committee to consider health and safety hazards and specified workers' compensation issues. The MOU requires the committee to report its activities to the Board of Supervisors each September.

The management appointees represent:

- Department of Human Resources (2)
- Department of Public Health
- Human Services Agency
- Health Service System
- Recreation and Parks

The labor representatives are employees from:

- Department of Emergency Communications
- Department of Public Health (3)
- Human Services Agency
- Public Defender's Office
- SEIU Field Representative

## Activities and Accomplishments

The committee met on the following dates:

- 11/17/2015
- 2/11/2016
- 6/23/2016
- 9/22/2016

The following issues were discussed:

- Safety issues for nurses working in the jails
- Reasonable accommodation process and employment rights for persons with disabilities in CCSF
- Assaults on employees of CCSF in the course of employment
- Long Term Disability supplements where employees may not be able to return to the usual job and opt to take a lower-paying position within the City, and what communications need to occur to advise employees of all of their options to stay employed
- Ergonomic chairs for Juvenile Probation Department/24/7 use
- Family Medical Leave Act
- Managing insects/vermin in public buildings
- Safety issues for museum guards at Asian Art Museum
- Safety for janitors, particularly females working after hours

Since the last report to the Board of Supervisors, the following has been accomplished:

- Presentation on Reasonable Accommodation Process and employment rights for persons with disabilities in CCSF by the DHR Equal Employment Opportunity Division.
- The SF Sheriff's Department attended a meeting to review and address the concerns of nurses working in the jails. SEIU representatives reported that improvements were seen within a week of that meeting, and that nursing staff safety had improved.
- Extensive discussion about whether museum guards would be covered when performing certain activities under the workers' compensation program led to an agreement for the CCSF Workers' Compensation Director to meet with SEIU and a group of the museum guards to discuss compensability issues. The meeting will be scheduled at the request of SEIU.
- Discussion/explanation of the building pest maintenance program at the Human Services Agency.

- DHR completed a study of injuries that occurred as a result of an assault to SEIU Member Classifications. The report spanned 4 years beginning in 2011-12 through 2014-15 and includes a summary of the classifications and locations where the assaults occurred, the type of aggressor, and the costs of the resulting injuries.

The majority of assaults were reported by the Department of Public Health and occurred during patient care at the San Francisco General Hospital or Laguna Honda Hospital. Because employees are encouraged to report all incidents, 43.6% of reported assaults had no costs associated with their claims and required no medical treatment. The committee accepted this report as a baseline for further study. DHR will update the study on an annual basis which will assist with identifying trends and potential preventative measures.

The committee plans to continue meeting on a quarterly basis to continue to discuss issues of concern. Items on future agendas include:

- Improving communications of safety and wellness issues
- Building maintenance issues that can affect employee health
- Coordination of benefit information between Health Services and employees eligible for Long-Term Disability/LTD Supplements
- Family Medical Leave Act Coordination with workers' compensation leave

\* \* \*



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**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: Annual Report to the San Francisco Board of Supervisors on Hospitalization and Medical Treatment as required by Administrative Code Sec. 16.82  
**Attachments:** BOSAnnualRpt Hospital Medical costs2015 16v3.pdf

**From:** Buick, Jeanne (HRD)  
**Sent:** Wednesday, September 28, 2016 11:56 AM  
**To:** Gosiengfiao, Rachel (BOS) <[rachel.gosiengfiao@sfgov.org](mailto:rachel.gosiengfiao@sfgov.org)>  
**Cc:** Sugarman, Peggy (HRD) <[peggy.sugarman@sfgov.org](mailto:peggy.sugarman@sfgov.org)>  
**Subject:** Annual Report to the San Francisco Board of Supervisors on Hospitalization and Medical Treatment as required by Administrative Code Sec. 16.82

Hi Rachel,

Can you please forward the attached report from Director Callahan to the Board of Supervisors?

Thanks,

Jeanne Buick  
Executive Assistant to the Director  
Department of Human Resources  
(415) 557-4815







Edwin M. Lee  
Mayor

Micki Callahan  
Human Resources Director

**DATE:** September 30, 2016

**TO:** Honorable President London Breed, San Francisco Board of Supervisors  
Honorable Members of the Board

**FROM:** Micki Callahan, Human Resources Director

**RE:** Annual Report to the San Francisco Board of Supervisors on Hospitalization and Medical Treatment as required by Administrative Code Sec. 16.82

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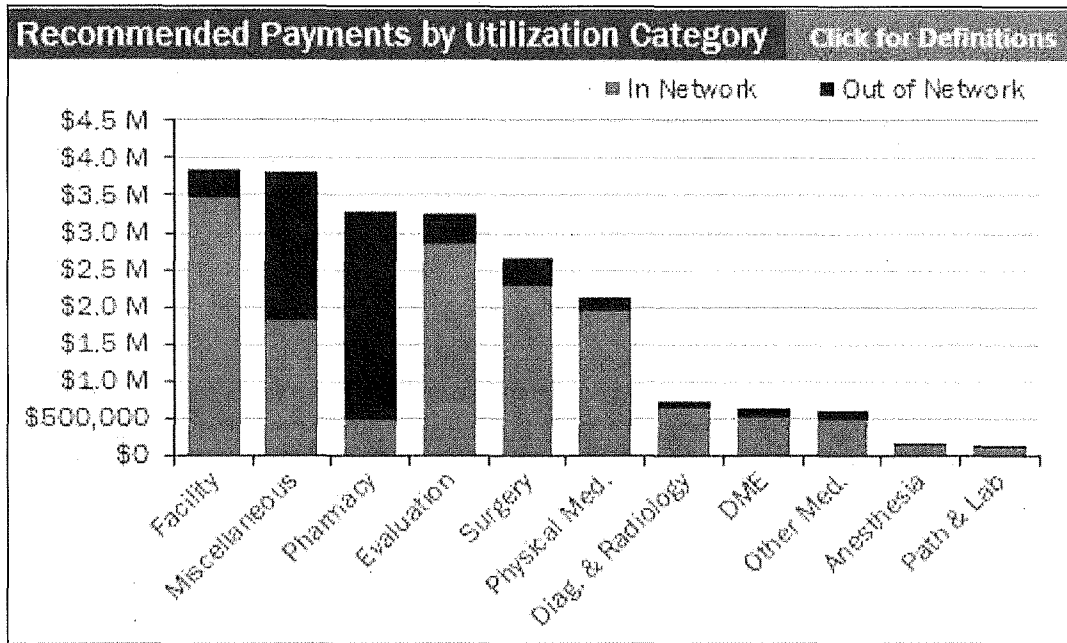
Section 16.82 of the San Francisco Administrative Code provides authority to the Human Resources Director to administer the City's workers' compensation program and to arrange for hospitalization and medical services necessary and appropriate for those employees who have been injured on the job. The code further requires the Human Resources Director to submit an annual report to the Board of Supervisors no later than September 30 of each year to include the costs of hospitals and other medical providers.

### **Program Overview**

The CCSF Workers' Compensation Division administers a Medical Provider Network (CCSF MPN) approved by the State Division of Workers' Compensation that includes participating hospitals and physicians to provide medical treatment to employees who become injured or ill in the course of employment. Medical provider networks are the primary tool for ensuring that medical treatment is consistent with best occupational health practices and state-mandated treatment guidelines. The DHR Workers' Compensation Division administers the CCSF MPN according to state legal requirements. The San Francisco Municipal Transit Agency joined the CCSF MPN in 2013.

### **Medical Provider Network Penetration**

The chart below illustrates network penetration by type of service from July, 2015 through June, 2016. Network penetration for key categories, such as facilities, surgery, services of the treating physicians (listed as "Evaluation"), and physical medicine is excellent.



### Hospitalization and Total Medical Costs

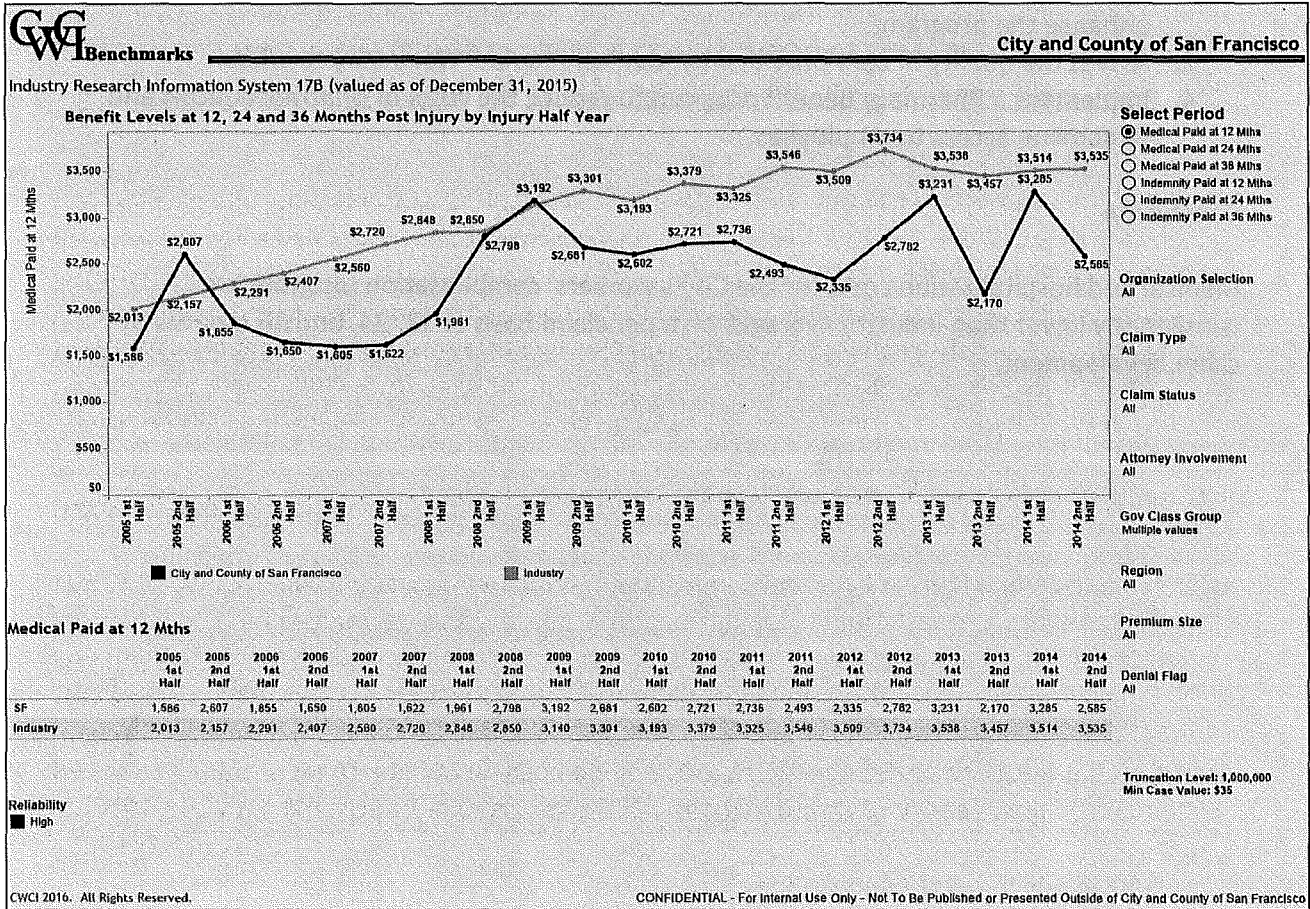
The chart below illustrates the costs for hospitalization and total medical expenditures (which include hospitalization) for the 2013-14, 2014-15, and 2015-16 fiscal years. Total medical costs, including hospitalization, decreased by 2.20% in the last fiscal year. While hospitalization costs increased by 2.93%, they are still 10.5% below hospitalization costs paid in 2013-14.

	F/Y 2013-14 Paid Medical	F/Y 2014-15 Paid Medical	F/Y 2015-16 Paid Medical	\$ Increase/ Decrease	% Increase/ Decrease
Hospitalization	\$7,326,463	\$6,365,490	\$6,552,245	\$186,755	2.93%
Total Medical	\$25,712,804	\$23,093,734	\$22,585,963	-\$507,772	-2.20%

### Benchmarked Performance – Average Medical Costs Per Claim

The City & County of San Francisco submits de-identified workers' compensation claims data to the California Workers' Compensation Institute which allows the City to benchmark its performance to other workers' compensation claims administrators in California. The graph below depicts medical costs per claim at 12 months of claim development by injury year compared to the rest of the industry, including insurers and other private and public companies, excluding the San Francisco Municipal Transit Agency.

With few exceptions, medical costs per claim are consistently below industry averages. Average medical costs for the industry ranged from \$3514 to \$3457 between the first half of 2013 through the second half of 2014. By comparison, the City's costs ranged from \$2170 to \$3285 per claim.



### Program Improvements in 2015-16

- The Workers' Compensation Division implemented a pilot pre-authorization "Fast Track" program for common medical treatments for the first 90 days of a claim with participating occupational health clinics. The program was launched in August, 2015.
- A Medical Provider Network Committee representing DHR, SFMTA, City Attorney's Office, and the contracted workers' compensation claims administrator (Intercare) met quarterly to review needed changes to the CCSF Medical Provider Network and resulted in the successful dismissal of two providers from the network and the addition of other providers to enhance access to specialists in the areas of psychiatry and orthopedics.

### **Goals for 2016-17**

1. Evaluate medical cost data to identify opportunities to streamline the delivery of medically necessary care.
2. Assess the performance of the "Fast Track" program for preauthorized medical treatment will be assessed to determine whether there are any changes that could enhance the program.
3. Assess the quality of care provided by Medical Provider Network providers.
4. Implement a Pharmacy Benefit program to reduce the costs of pharmaceuticals and streamline access to employees.

### **Conclusion**

Medical and hospitalization costs for the City's workers' compensation program are consistently lower than industry averages on a per claim basis at 12, 24, and 36 months of claim development.

\* \* \*

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**From:** Reports, Controller (CON)  
**Sent:** Thursday, September 29, 2016 3:19 PM  
**To:** Calvillo, Angela (BOS); Gosiengfiao, Rachel (BOS); BOS-Supervisors; BOS-Legislative Aides; Kawa, Steve (MYR); Howard, Kate (MYR); Steeves, Asja (CON); Campbell, Severin (BUD); Newman, Debra (BUD); Rose, Harvey (BUD); SF Docs (LIB); CON-EVERYONE; Reiskin, Ed (MTA); Boomer, Roberta (MTA); Sakelaris, Kathleen (MTA); Bose, Sonali (MTA); Malone, Robert (MTA); ted.graff@sfmta.com; david.dunham@sfmta.com; mashariki@secteam.com; lynda@secteam.com; rich.hashimoto@gmail.com; CHefner@lazparking.com  
**Subject:** Issued: SFMTA: Compliance Audits of Japan Center and Zuckerberg San Francisco General Hospital Garages

The Office of the Controller's City Services Auditor Division (CSA) today issued two audit reports, prepared by Sjoberg Evashenk Consulting, on the Japan Center and Zuckerberg San Francisco General Hospital garages for July 1, 2013, through June 30, 2015.

#### Zuckerberg San Francisco General Hospital Garage

LAZ Parking California LLC (LAZ Parking) operates the parking garage at Zuckerberg San Francisco General Hospital and Trauma Center. In general, SFMTA ensured that LAZ Parking appropriately performed most parking garage activities, with the goal of achieving optimal operational and financial performance at the garage. However, the audit identified three areas for improvement. That is, SFMTA and/or LAZ Parking need to improve cash-handling controls, improve its review of operational expenses claims, and develop written policies and procedures for lease management.

To view the full report, please visit our website at: <http://openbook.sfgov.org/webreports/details3.aspx?id=2363>

#### Japan Center Garages

The City of San Francisco Japan Center Garage Corporation (Corporation) operates the Japan Center Garage and an annex garage (Japan Center Garages). In general, SFMTA ensured that the Corporation appropriately performed most parking garage activities, with the goal of achieving optimal operational and financial performance at the Japan Center Garages. However, the Corporation remitted \$42,193 less in revenue to the City due a transposing error. The audit also identified four areas for improvement. That is, SFMTA and/or the Corporation need to: improve cash-handling controls, accurately remit revenue disbursements, enforce timely payment requirements with tenants, and develop written policies and procedures for lease management.

To view the full report, please visit our website at: <http://openbook.sfgov.org/webreports/details3.aspx?id=2362>

This is a send-only e-mail 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.

Follow us on Twitter @SFController

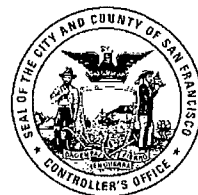


# City and County of San Francisco

Office of the Controller – City Services Auditor

## **SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY:**

LAZ Parking California LLC  
Correctly Reported Revenues of the  
Garage at Zuckerberg San Francisco  
General Hospital for July 2013  
Through June 2015, but a Few  
Improvements Can Strengthen Its  
Operations



September 29, 2016

**OFFICE OF THE CONTROLLER  
CITY SERVICES AUDITOR**

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

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

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

For questions 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 Audit Team: Winnie Woo, Associate Auditor

Audit Consultants: Sjoberg Evashenk Consulting, Inc.



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

**Ben Rosenfield**  
Controller

**Todd Rydstrom**  
Deputy Controller

September 29, 2016

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

Mr. 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 Board Chairman, Board Members, and Mr. Reiskin:

The Office of the Controller's City Services Auditor Division (CSA) engaged Sjoberg Evashenk Consulting, Inc., (SEC) to audit the lease agreement under which LAZ Parking California LLC (LAZ Parking) operates the parking garage at Zuckerberg San Francisco General Hospital and Trauma Center (ZSFG Garage). SEC also reviewed the management and oversight of the lease by the San Francisco Municipal Transportation Agency (SFMTA).

**Reporting Period:** July 1, 2013, through June 30, 2015

**Revenue:** \$5,691,620

**Results:**

LAZ Parking reported to SFMTA the ZSFG Garage's operating revenues of \$5,691,620 and expenditures of \$3,696,451 during the audit period. In general, SFMTA ensured that LAZ Parking appropriately performed most parking garage activities, with the goal of achieving optimal operational and financial performance at the ZSFG Garage. However, the audit identified three areas for improvement. That is, SFMTA and/or LAZ Parking needs to: improve cash-handling controls, improve review of operational expenses claims, and develop written policies and procedures for lease management.

CSA appreciates the assistance and cooperation of the staffs of SFMTA and LAZ Parking during the audit. For questions about the report, please contact me at [Tonia.Lediju@sfgov.org](mailto:Tonia.Lediju@sfgov.org) or 415-554-5393 or CSA at 415-554-7469.

Respectfully,

Tonia Lediju  
Director of City Audits

Attachment



cc: Board of Supervisors  
Budget Analyst  
Citizens Audit Review Board  
City Attorney  
Civil Grand Jury  
Mayor  
Public Library

San Francisco Municipal Transportation Agency:  
LAZ Parking California LLC Correctly Reported  
Revenues of the Garage at Zuckerberg San  
Francisco General Hospital and Trauma Center  
for July 2013 Through June 2015, but a Few  
Improvements Can Strengthen Its Operations

September 2016



# Executive Summary

## Purpose of the Audit

As authorized by the San Francisco Administrative Code, the Office of the Controller's City Services Auditor Division engaged Sjoberg Evashenk Consulting, Inc., to assess whether LAZ Parking California LLC (LAZ Parking) complied with certain provisions in its lease agreement with the City and County of San Francisco (City) to operate the Zuckerberg San Francisco General Hospital and Trauma Center Garage (ZSFG Garage). The audit also assessed whether the San Francisco Municipal Transportation Agency (SFMTA) conducted appropriate contract management and oversight activities of the lease.

## Highlights

Pursuant to San Francisco Administrative Code Chapter 10.6-2, the Office of the Controller (Controller) is tasked with ensuring departments adequately manage their leases for leased property. To this end, the Controller engaged Sjoberg Evashenk Consulting, Inc., (SEC) to audit the LAZ Parking lease agreement with the City to operate the ZSFG Garage. SEC also reviewed SFMTA's management and oversight of the agreement with LAZ Parking.

LAZ Parking reported \$5,691,620 in ZSFG Garage operating revenues and \$3,696,451 in expenses to SFMTA for July 1, 2013, through June 30, 2015.

The audit found that, in general, SFMTA ensured LAZ Parking appropriately performed most parking garage activities to ensure optimal operational and financial performance at the ZSFG Garage. However, the audit identified some areas where SFMTA could improve. In particular, the following areas need improvement:

- Cash-handling controls
- Operational expense reimbursements
- Written policies and procedures for SFMTA contract management and oversight activities

## Recommendations

The report includes three recommendations for SFMTA to improve compliance with the provisions of the LAZ Parking lease. Key recommendations include:

- Enforce standard cash-handling protocols to ensure the security of parking garage collections.
- Enforce lease provisions outlining authorized expenses and expense reimbursement requirements.
- Develop written policies and procedures for administration and management of the lease.

# INTRODUCTION

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## **Audit Authority**

The lease agreement between the City and County of San Francisco (City) and LAZ Parking California LLC (LAZ Parking) authorizes the City and its representatives to audit all accounts and records established under the lease. The San Francisco Administrative Code, Chapter 10.6-2, grants the Office of the Controller (Controller) the authority to audit departments to ensure that they are adequately managing their leases for leased property. Also, the City Charter provides the Controller with broad authority to conduct audits. This audit was conducted under these authorities and pursuant to an audit plan agreed to by the Controller and the San Francisco Municipal Transportation Agency (SFMTA). CSA engaged Sjoberg Evashenk Consulting, Inc., (SEC) to audit the lease agreement between the City and LAZ Parking under which LAZ Parking operates the Zuckerberg San Francisco General Hospital and Trauma Center Garage (ZSFG Garage), as well as an assessment of SFMTA's management of the agreement.

## **Background**

The City has a lease agreement with LAZ Parking to manage the ZSFG Garage, a public parking garage located at 2500 24th Street in San Francisco. The lease commenced on February 1, 2012, and will remain in effect until January 31, 2018.

LAZ Parking is responsible for the supervision and oversight of ZSFG Garage operational activities and for ensuring that revenues and operational expenses generated through the garage are appropriately remitted to the City. LAZ Parking remits all ZSFG Garage revenues to the City daily and submits monthly requests for reimbursement for operational expenses, including staff salaries and benefits.

SFMTA is tasked with the management and oversight of the City's public, off-street parking garages. The City delegated authority to SFMTA to oversee the activities of the parking garage operators responsible for the daily management and

operations of the parking garages. SFMTA is responsible for reviewing and approving parking garage budgets and operational expenses, inspecting garages, and ensuring that parking garage operators adhere to the terms of their lease agreements.

## **Objectives**

The purpose of this audit was to determine whether LAZ Parking:

- Reported and correctly submitted to SFMTA all revenues collected from the operation of the ZSFG Garage;
- Calculated and reported correctly all of its operating expenses; and,
- Complied with other provisions of its lease agreement with the City.

Additionally, the audit evaluated whether SFMTA's contract management practices and procedures adequately ensured that LAZ Parking complied with certain lease agreement provisions.

## **Scope and Methodology**

The audit covered the period July 1, 2013, through June 30, 2015.

To conduct the audit, the audit team:

- Reviewed the applicable terms of the lease agreement between the City and LAZ Parking.
- Assessed LAZ Parking's internal controls and procedures over collecting, recording, summarizing, and reporting gross revenues and expenditures.
- Determined whether LAZ Parking submitted complete and accurate monthly statements to report accurate gross revenues, remitted all revenues collected according to the terms of the lease agreement, and correctly submitted operating expenditure reports.
- Reviewed whether LAZ Parking complied with various other lease and operating agreement provisions.

The audit identified weaknesses in cash-handling procedures deemed sensitive in nature. For security reasons, SEC excluded these findings from this public report and instead submitted a confidential memorandum to SFMTA reporting the findings and appropriate recommendations for remediating these weaknesses.

**Statement of  
Auditing Standards**

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

# AUDIT RESULTS

## Summary

From July 1, 2013, through June 20, 2015, LAZ Parking California LLC (LAZ Parking) reported to SFMTA total operating revenues of \$5,691,620 and expenses of \$3,696,451.

<b>Exhibit San Francisco General Hospital Garage Operating Revenues and Expenses July 1, 2013, Through June 20, 2015</b>			
Reporting Period	Revenues	Expenses	Operating Income (Revenue less Expense)
July 1, 2013 – June 20, 2014	\$2,828,645	\$1,757,887	\$1,070,758
July 1, 2014 – June 20, 2015	2,862,975	1,938,564	924,411
<b>Total</b>	<b>\$5,691,620</b>	<b>\$3,696,451</b>	<b>\$1,995,169</b>

The audit found that, in general, SFMTA ensured that LAZ Parking appropriately performed most parking garage activities to ensure optimal operational and financial performance at the ZSFG Garage. However, the audit identified some areas where SFMTA could improve. In particular, the following areas need improvement:

- Cash-handling controls
- Operational expenses
- Written policies and procedures for SFMTA contract management and oversight activities

According to SFMTA, it is obtaining a new revenue control equipment system for all parking garages, including the ZSFG Garage, which SFMTA anticipates will help mitigate or eliminate many of the findings in this report.

## Finding 1

### ***Certain Cash-Handling Controls and Security Measures Are Inadequate***

The audit included multiple observations of cashiers processing payments and balancing their cash drawers at

shift end, LAZ Parking management processing electronic check deposits and issuing monthly parking passes, and the overall day-end close-out practices. Additionally, the audit evaluated the automated parking revenue control equipment system, DATAPARK, utilized to control and manage the parking garage cash registers and the entry and exit gates.

The audit determined that DATAPARK included sufficient controls over cash collection, such as:

- Restricted access to adjust parking payments due
- Unique usernames and passwords for system access
- No direct access by LAZ Parking or users to change parking rates
- Imbedded audit trails within the system to track all system activities by user.

However, the audit identified some internal control weaknesses over cash-handling procedures at the ZSFG Garage.

**Recommendation**

1. The San Francisco Municipal Transportation Agency should work with LAZ Parking California LLC to reinforce standard cash-handling protocols to ensure the security of parking garage collections.

**Finding 2**

***Operational Expenses Claimed Are Not Always Supported or Allowable***

The Garage agreement includes provisions that allow LAZ Parking to invoice the City for reimbursement of its operating expenses. Section 6.8, Operating Expenses, of the lease agreement between the City and LAZ Parking requires the following of all invoices for operations expenses claimed:

- An invoice and statement listing all operating expenses for the month
- Copies of all invoices, receipts or other evidence



- Evidence of payment of all items
- Any other such supporting documentation evidencing such operating costs, salaries, wages, payroll taxes and benefits as the City may require

LAZ Parking did not consistently comply with lease agreement provisions for the operational expenses claimed for reimbursement and included an unallowable expense in its monthly reimbursement requests.

In some instances, LAZ Parking did not consistently submit sufficient supporting documents demonstrating the accuracy or allowability of operating expenses claimed, did not sufficiently demonstrate that operational expenses were fully paid prior to reimbursement request, and claimed expense amounts that did not always match supporting documents. For example, LAZ Parking was reimbursed \$1,870 for a maintenance and repair expense but did not submit documents demonstrating the accuracy of the expense (such as a vendor invoice) or that the expense was fully paid, as required by the lease agreement. In another example, the audit identified an instance where LAZ Parking claimed a \$1,120 professional services expense, where the supporting documentation submitted did not match the expense amount. Specifically, the professional services invoice submitted as support was for \$45, but the expense amount claimed was \$1,120. Although LAZ Parking did not provide the appropriate documentation for claim reimbursement, SFMTA did not request additional clarification for the expenses and paid LAZ Parking for the claims.

Furthermore, LAZ Parking claimed an unallowable expense each month: a recurring "manager fee" of \$1,000, plus associated payroll taxes. This "manager fee" is separate from and in excess of the authorized monthly management fee paid to LAZ Parking of \$10,850 for operating six SFMTA parking garages. According to SFMTA management, this additional "manager fee" was informally authorized by SFMTA management in 2012, at the onset of the lease agreement, to temporarily provide LAZ Parking

additional compensation for taking over the daily operations of the parking garages from the prior operator. However, the additional, temporary fee was not memorialized in the original lease agreement or in a subsequent amendment, and LAZ Parking continues to claim, and SFTMA continues to reimburse, this unallowable expense.

**Recommendation**

2. The San Francisco Municipal Transportation Agency should enforce lease agreement provisions outlining authorized expenses and expense reimbursement requirements and review expenditures claims more diligently to ensure only allowable and fully supported expenses are claimed and reimbursed. Any caveats on contract provisions should be formally memorialized through an amendment to the lease agreement.

**Finding 3**

***SFMTA Lacks Written Policies and Procedures for the Management of Its Parking Garage Lease Agreements***

The SFMTA does not have written policies and procedures for its lease management and oversight activities. During the audit, there were instances in which SFMTA had difficulty locating documents or identifying the person assigned a specific lease management responsibility, such as locating documents demonstrating that LAZ Parking appropriately maintained minimum insurance, bond, and security deposit requirements, as detailed in the lease agreement. This finding was also identified in a 2014 audit of another public parking garage overseen by SFMTA. By not having formal policies and procedures, SFMTA may continue to encounter obstacles to effectively and efficiently conducting lease agreement oversight.

**Recommendation**

3. The San Francisco Municipal Transportation Agency should develop written policies and procedures that detail the role and responsibilities of San Francisco Municipal Transportation Agency staff in managing the parking garage lease agreements, including document retention and filing procedures.

# Attachment A: SFMTA Response

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**SFMTA**  
Municipal  
Transportation  
Agency

Edwin M. Lee, *Mayor*

Tom Nolan, *Chairman*

Cheryl Brinkman, *Vice-Chairman*

Gwyneth Borden, *Director*

Malcolm Heinicke, *Director*

Edward D. Reiskin, *Director of Transportation*

Lee Hsu, *Director*

Joél Parnos, *Director*

Cristina Rubka, *Director*

September 12, 2016

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

**Subject: Zuckerberg San Francisco General Garage Audit 2016**

**Dear Ms. Lediju:**

I would like to thank you and your staff, and the staff of Sjoberg Evashenk Consulting, for the review of contract-administration procedures garage operations related to the operation and management of the Zuckerberg San Francisco General Garage, which is operated by LAZ Parking. SFMTA staff will work with LAZ staff over the next few months to address the few minor recommendations outlined in your report.

If you have any questions or need additional information, please do not hesitate to contact Ted Graff, Director of Parking, at (415) 579-9707.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Reiskin".

**Edward D. Reiskin**  
**Director of Transportation**

For each recommendation, the San Francisco Municipal Transportation Agency should indicate whether it concurs, does not concur, or partially concurs. If the San Francisco Municipal Transportation Agency concurs with the recommendation, it should indicate the expected implementation date and implementation plan. If the San Francisco Municipal Transportation 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
The San Francisco Municipal Transportation Agency should:	
1. Work with LAZ Parking California LLC to reinforce standard cash handling protocols to ensure the security of parking garage collections.	<b>Concur.</b> SFMTA will coordinate with the LAZ Parking to ensure the recommended control improvements are implemented by 9/30/2016.
2. Enforce lease agreement provisions outlining authorized expenses and expense reimbursement requirements and review expenditures claims more diligently to ensure only allowable and fully supported expenses are claimed and reimbursed. Any caveats on contract provisions should be formally memorialized through an amendment to the lease agreement.	<b>Concur.</b> SFMTA implemented a change to the manager/administrative billing for the garage (i.e. the non-union labor) effective July 1, 2016. Moreover, in July and August 2016, SFMTA staff completed a comprehensive re-training of all parking operators on the detailed requirements for submission of reimbursable expenses.
3. Develop written policies and procedures that detail the role and responsibilities of San Francisco Municipal Transportation Agency staff in managing the parking garage lease agreements, including document retention and filing procedures.	<b>Concur.</b> The development of written procedures is underway, and SFMTA will finalize by 12/31/2016 a set of policies and procedures for the management of garage leases and management agreements.

## Attachment B: LAZ Parking Response

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PARKING  
P: (415) 550.8740  
F: (415) 358.5722  
www.lazparking.com

Partners In Parking™

September 22, 2016

Tonia Lediju  
Director of City Audits  
City Hall, Room 476  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Dear Ms. Lediju:

We have received and reviewed the draft audit report, *San Francisco Municipal Transportation Agency: LAZ Parking California LLC Correctly Reported San Francisco General Hospital Garage Revenues for July 2013 Through June 2015, But Few Improvements Can Strengthen its Operations*. This letter is to confirm that, based upon the details provided, we agree with the audit results and concur with the recommendations.

If you have any questions, please feel free to call me at 210-241-9833.

Cordially,



Cindy Hefner  
Director of Operations

---

**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: Sheriff Department's second quarter use of force report  
**Attachments:** 2016 second quarter use of force report 96A.pdf

**From:** Toet, Theodore (SHF)  
**Sent:** Friday, September 30, 2016 5:21 PM  
**To:** Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>  
**Cc:** Gosiengfiao, Rachel (BOS) <[rachel.gosiengfiao@sfgov.org](mailto:rachel.gosiengfiao@sfgov.org)>; Koehler, Carl (SHF) <[carl.koehler@sfgov.org](mailto:carl.koehler@sfgov.org)>; Hennessy, Vicki (SHF) <[vicki.hennessy@sfgov.org](mailto:vicki.hennessy@sfgov.org)>  
**Subject:** Sheriff Department's second quarter use of force report

Good Afternoon Madam Clerk,

Attached please find a copy of the Sheriff Department's second quarter use of force report required by Administrative Code Chapter 96A. Please distribute copies of this report to all members of the Board of Supervisors and their staff.

Thank you,  
Ted Toet

Ted Toet  
Executive Assistant to the Sheriff  
San Francisco Sheriff's Department  
1 Carlton B. Goodlett Pl. Room 456  
San Francisco, CA 94102  
Office: (415) 554-7015  
Cell: (415) 852-0374





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

1 DR. CARLTON B. GOODLETT PLACE  
ROOM 456, CITY HALL  
SAN FRANCISCO, CALIFORNIA 94102



**VICKI HENNESSY  
SHERIFF**

September 30, 2016  
Reference: 2016-120

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

Re: 96A Quarter 2 Law Enforcement Reporting Requirements

Dear Mayor Lee,

In October of 2015 the Board of Supervisors passed Ordinance 166-15 amending San Francisco's Administrative Code, Chapter 96A: Law Enforcement Reporting Requirements. This quarter the Sheriff's Department is required to report its use of force and arrests for the period of April 1, 2016-June 30, 2016.

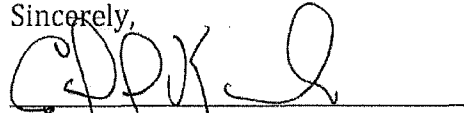
Administrative Code, Chapter 96A defines use of force as, "use of force on an individual that results in a known injury." California Penal Code §834 defines an arrest as the, "taking of a person into custody, in a case and manner authorized by law." For this report, only individuals who were transported to and booked into County Jail #1 by sheriff's deputies are considered arrested. This quarter the Sheriff's Department is reporting 11 uses of force and 97 arrests.

The Sheriff's Department is composed of three divisions, Administration and Programs, Custody Operations and Field Operations. Each division has many worksites that require staffing 24 hours-a-day, seven days-a-week. The deputies who work at the sites we secure are dedicated to ensuring safety for everyone conducting business there.

Attached is the Department's second quarter report summarizing the Department's arrests and use of force as required by Administrative Code, Chapter 96A throughout the Department's three divisions.

If you have any questions, please do not hesitate to contact my Chief of Staff, Eileen Hirst, at 415.554.7225.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Koehler', written over a horizontal line.

CARL KOEHLER

Undersheriff

(For Sheriff Vicki L. Hennessy)

Cc: President of the Board London Breed  
Supervisor John Avalos  
Supervisor David Campos  
Supervisor Malia Cohen  
Supervisor Mark Farrell  
Supervisor Jane Kim  
Supervisor Eric Mar  
Supervisor Aaron Peskin  
Supervisor Katy Tang  
Supervisor Scott Weiner  
Supervisor Norman Yee  
President Suzy Loftus, San Francisco Police Commission  
Zoe Polk, Human Rights Commission



## San Francisco Sheriff's Department Use of Force Reporting – April 1, 2016 – June 30, 2016

Below is the Sheriff's Department's second quarter report required by, San Francisco City and County Administrative Code, Chapter 96A: Law Enforcement Reporting Requirements.

### Arrests

- Total number of arrests (department-wide): **97**
  - Administration and Programs: **4**
  - Custody Operations: **32**
  - Field Operations: **61**
  
- By Race, Age and Gender: Please see table titled *San Francisco Sheriff's Department, Arrests, April 1, 2016 – June 31, 2016*.

### Use of Force

- Total number of reportable uses of force (department-wide): **11**
  - Administration and Programs: **0**
  - Custody Operations: **4**
  - Field Operations: **5**
  - Off Duty Encounters: **2**
  
- By Race, Age and Gender: Please see table titled *San Francisco Sheriff's Department, Use of Force, April 1, 2016 – June 31, 2016*. The off duty encounters are not included in this report because the suspects were not taken into custody by the San Francisco Sheriff's Department.

During the second quarter there were 11 reportable uses of force, they are summarized below.

#### **16-1-4-024 April 16, 2016**

During the booking process at County Jail #1, a deputy heard loud noises coming from holding cell #6. When they arrived at the cell to investigate, they discovered the inmate behaving erratically. He was throwing toilet paper, yelling incoherently, and banging his forehead into the glass door. The deputy immediately radioed for back up to assist with a safety cell placement. Once back-up arrived, a deputy instructed the inmate to turn around for handcuffing. The inmate did not comply. He then banged the back of his head on the glass door and walked to the back of the cell. Deputies then opened the cell door and entered to gain control of the inmate. He was instructed them to get on the ground several times and did not comply. Using force, the deputies brought the inmate on the ground for handcuffing. The inmate ignored deputies' instructions for the duration of the safety cell placement.

Once the inmate was housed in the safety cell, as deputies attempted to remove the handcuffs, the inmate continued resisting deputies and began kicking his legs. After ignoring several requests to stop kicking, a deputy restrained the inmate's legs. At this time the inmate balled his hands into fists. Initially the inmate ignored orders to unball his fists but eventually complied.

At the end of the altercation a small cut was noticed by staff above the inmate's right ear. Deputies alerted Jail Medical who examined the cut and determined that it was superficial. They then medically cleared the inmate and staff exited the safety cell without further incident.

**160-338-749**  
**April 25, 2016**

Deputies were dispatched by the Sheriff's Operation Center to the Outpatient Pharmacy at San Francisco General Hospital to respond to a report that a verbal argument was in progress. Upon their arrival the argument had subsided. Noticing a patient, whom deputies recognized as a regular patient who routinely argues with medical staff and other patients, sitting at a registration window, they approached him to gather additional information. The patient reported that he was cut in line by a female patient. After telling her that he was next, she began to yell at him. He yelled back in response.

Deputies then asked the patient for his identification. While looking for his ID, he became agitated and began yelling at them. His only form of identification was an expired military ID card. The deputy who received the card, noticed that it had expired and confiscated it informing the patient that it was the property of the United States Government and needed to be returned. The patient became angry and attempted to take his military ID card back and punched the deputy in the face. Deputies on the scene attempted to gain control of the patient's arms to handcuff him. The patient continued resisting and ignoring Deputies' instructions. He then balled his fists and tucked them under his body to prevent the deputies from gaining control of his arms.

After several attempts to gain control of the patient's arms, deputies informed him that he would be tased if he continued resisting. He continued to resist and a deputy discharged the taser. The patient was wearing a big puffy jacket, which prevented the taser from working effectively. Eventually deputies gained control of the patient and placed him in handcuffs. He was then placed in the holding cell at the Sheriff's sub-station.

After placing the patient in the holding cell deputies immediately conducted a medical check, noticed that he had several cuts and scrapes on his face and escorted him to the Emergency Department where he was medically cleared of his injuries. He was then transported to County Jail #1 for booking.

**160-366-621**

**May 4, 2016**

A sheriff's deputy was dispatched to San Francisco General Hospital's Psychiatric Emergency Services unit on a report that a mental health patient had run out of the ward. After speaking with medical staff, the deputy pursued the patient on foot and observed him climbing over a fence toward Southbound 101. The deputy followed the patient and provided responding units with their location.

Then the deputy noticed the patient hiding under a bush. The deputy ordered him to put his hands behind his back. The patient did not comply. The deputy updated responding units with his location and informed the patient that if he did not comply he would be tased. The patient refused to comply. The deputy then discharged the taser and the patient fell to ground and rolled to the bottom of the hill, breaking the taser's connection and rendering it ineffective.

The deputy again instructed the patient to place his hands behind his back. Then the deputy updated responding units with their location and advised the Sheriff's Operation's Center to notify the California Highway Patrol of the incident. Ignoring the deputy's orders, the patient got up off the ground and ran across all Southbound lanes of traffic to the center divider. He then crossed all Northbound lanes of traffic. The deputy followed, stopping traffic as he went. The deputy followed the patient into the emergency lane of Northbound 101 telling him if he did not get on the ground and put his hands behind his back that he would be tased again. The patient did not comply and the deputy discharged the taser. Although the taser hit the patient, he began running again and ran into the number one lane of Northbound 101 then up a hill on the east side of Highway 101.

As the patient ran up the hill the deputy updated his location. Additional deputies had arrived at the top of the hill and were waiting to take control of the patient. As deputies attempted to control him, the patient continued to resist. Finally deputized staff were able to handcuff the patient and transport him back to Psychiatric Emergency Services.

**1615007**

**May 6, 2016**

San Francisco Police officers brought three arrestees to County Jail #1 for booking and processing. When asked to exit their cell to be cleared by jail medical at the medical triage station, one arrestee refused. A deputy attempted to use force to direct the arrestee to the medical triage station. He responded by resisting and attempting to grab a deputy's arm. Several San Francisco Police officers and deputies responded to assist the deputy. After the altercation the arrestee was placed in handcuffs and leg irons. During the medical examination the arrestee refused to answer questions. Medical staff noticed a bruise on his arm and medically refused to accept him into the Sheriff's Department's custody. The San Francisco Police officers, who retained responsibility for the custody, transported him to San Francisco General Hospital for medical evaluation. Although the incident occurred in the jail, the sheriff's department did not yet have custody of the arrestee and was unable to collect his race, gender, and approximate age.

**165S22**  
**May 9, 2016**

Deputized staff responded to reports of a discharged patient refusing to leave the Emergency Room. Deputies tried to explain to the patient that he was discharged and needed to leave. The discharged patient refused and continued to threaten deputies and nursing staff. The discharged patient had his fists clench at the side of his body. A deputy advised him that no one wanted to fight him. He then began to leave the emergency room but stopped multiple times. He then took three to four overhead swings at the deputies but did not make contact. He then began threatening other patients as he entered the waiting room.

The discharged patient then took a boxer's stance and faced the deputies trying to escort him out. The deputies told him he needed to leave and he again swung two or three more times at the deputies and attempted to kick them. As the deputies walked him out of the waiting room he continued trying to kick and hit them. They advised him that if he did not stop, he would be arrested. He then approached one of the deputies and attempted to punch them in the face. The deputy deflected the punch and the discharged patient tripped over his own feet, fell backwards, and hit his head on a bench. The deputies notified hospital staff and the patient was readmitted into the emergency room.

**16-2-5-024**  
**May 13, 2016**

In Concord, California, an off duty deputy noticed a man (the suspect), pacing next to a pickup truck with two children in the front seat. About one minute later, another man who appeared to be related to the two kids and to own the pickup truck walked up to the vehicle. As the owner attempted to enter his truck, the suspect began threatening him and took a fighting stance with clenched fists. To defend himself, the owner grabbed a stick from the back of his truck. The suspect then charged at the man and attempted to punch him. The suspect missed and the owner hit him with the stick. The suspect continued to attack when the off duty deputy sheriff approached the suspect from behind and executed a bar arm take down. After gaining control of the suspect, the deputy identified himself as a San Francisco Sheriff's Deputy. Contra Costa sheriff's deputies responded and took control of the scene. The suspect was bleeding from the head and elbow. He was seen and medically cleared by the Contra Costa Fire Department. The San Francisco Sheriff's Deputy did not retain custody of the suspect who was taken by Contra Costa sheriff's deputies. He was unable to obtain the race, gender, and approximate age for this report.

**16-1-5-022**  
**May 14, 2016**

During the intake and booking process at County Jail #1 an inmate refused to comply with deputies' instructions while his photo was being taken. A deputy asked the inmate to move his hair off his face for the photograph. He would comply by moving his hair off his face, but would move it back just before his photograph was taken. After several

attempts to gain the custody's compliance, additional deputies intervened to assist the inmate by holding his hair out of the way. While assisting him, the inmate began pulling his arms away from the deputies and resisting. He was placed in a twist lock hold and continued to resist. After the altercation the inmate was then taken to the dress-in area where he continued to ignore the deputy's instructions. He then complained of pain in his left arm and was seen by Jail Medical and medically cleared.

**0516005**

**May 14, 2016**

In the Sheriff Department's locked ward at San Francisco General hospital, deputies were informed by nursing staff that they were ready to administer medication to a patient inmate. When asked to come to the door for handcuffing, he refused. Pacing in front of the door, the inmate raised his clenched fists above his head and waved them violently at the deputies. At the instruction of their supervisor, deputies grabbed one of the inmate's limbs when the cell door was opened. As they entered the cell the inmate swung his arms and punched a deputy in the right cheek. The deputies were able to control the inmate and use belly chains to handcuff the inmate and the nursing staff administered his medication.

While attempting to remove the handcuffs and belly chains from the inmate, he began resisting again. He continued to ignore verbal commands, clinched his fists, and attempted to pull his arms back into the cell with the handcuffs still attached. As deputies attempted to maintain control of the inmate and uncuff his right hand, the handcuff key broke. Deputies successfully uncuffed the inmate's left hand and attempted to remove the remaining handcuff from his right hand with a thin flat-head screw driver and pliers. The inmate continued resisting deputies causing the handcuffs to tighten. Recognizing that there was no other alternative, deputies decided to place the inmate into a four-point restraint hold to remove the handcuff and prevent injury. After restraining him on the bed and placing him in soft restraints, deputies used bolt cutter to remove the handcuff. Noticing cuts on the inmate's wrists from the incident. A deputy requested a medical examination and he was seen by a doctor who medically cleared him and ordered x-rays be taken of his wrists.

**160-417-246**

**May 22, 2016**

Sheriff's deputies responded to San Francisco General Hospital's Psychiatric Emergency Services on a report that a patient was attempting to assault medical staff and had broken the Plexiglas barrier at the counter. When deputies arrived, medical staff had secured themselves in the back office. The deputies observed the patient attempting to break the remaining Plexiglas barriers. Based on their observations, a deputy extended a baton and instructed the patient to stop. The patient refused to comply and tightened his fists and chest. The deputy then struck him with the baton three times on the left arm above the elbow. The patient did not respond to any of the strikes. A Deputy then deployed and discharged a taser and other deputies guided the patient to the ground. They ordered him to place his hands behind his back. He did not comply and continued resisting.

Eventually, deputies were able to pull the patient's right and left hands behind his back and handcuff them.

After notifying the Sheriff's Operation's Center that they had used their extendable baton and taser on the patient, the deputies placed the patient on a gurney and took him to the Emergency Department where he was treated for his injuries and cleared by medical staff.

**160 468 738**  
**June 9, 2016**

A sheriff's deputy was flagged down by a hospital employee who reported a discharged patient refusing to leave the lobby. The deputy contacted the discharged patient and advised him that he was unable to stay in the waiting room to charge his cell phone if he did not have business at the hospital. He then packed up his things and began to leave.

While exiting, the deputy noticed that the discharged patient was filming other patients and medical staff inside the waiting room. The deputy advised him that he could not film and that it was against hospital policy and a violation of the Health Insurance Portability and Accountability Act (HIPAA). The deputy advised him that the video needed to be deleted or his phone would be confiscated. He refused. The deputy then told him that he was being detained for refusing to delete the video. The deputy asked him to hand the phone over and he refused. The deputy then placed him in a rear wrist lock and he began to struggle and tried to pull away. While attempting to place him in handcuffs, the deputy placed him against a metal lamp post and he was placed under arrest.

After the altercation the discharged patient stated that he wanted speak with a lawyer and accused the deputy of cutting his eye. The deputy then contacted the Sheriff's Operation's Center and the discharged patient was taken to the Emergency Room to have his injury examined. He was medically cleared by hospital staff and transported to County Jail #1 for booking.

**160049721**  
**June 19, 2016**

While working at San Francisco General Hospital deputies were dispatched to the Walgreen's on the corner of 24th avenue and Potrero. They were responding to a report of a man with a knife. Upon their arrival they noticed a suspect running east bound, away from a San Francisco Police officer. The deputies responded to assist the officer and activated their emergency lights and sirens ordering the suspect to stop and get down on the ground. The suspect refused and continued to run. One sheriff's deputy exited the vehicle, pursuing the suspect on foot. After refusing additional instructions from the deputy he was tackled. After the incident, the suspect complained of shoulder pain to the deputy and they request an ambulance. He suspect was transported to San Francisco General Hospital for further evaluation. Upon further investigation it was discovered that the suspect had not committed a crime and was issued an 849 (b) release form.

**SAN FRANCISCO SHERIFF'S DEPARTMENT**  
**ARRESTS BY RACE, AGE & GENDER**  
**April 1, 2016 - June 30, 2016**

		Total Department (97)		Admin/Programs (4)		Custody (32)		Field (61)	
		Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
<b>RACE</b>	Asian/Pacific Islander	5	5	0	-	2	6.	3	5
	Black	41	43	2	50	14	44	25	41
	Hispanic	8	8	0	-	3	9	5	8
	White	37	38	1	25	11	34	25	41
	Unknown	6	6	1	25	2	6	3	5
<b>AGE</b>	>18	1	1	0	-	0	-	1	2
	18 - 29	35	36	2	50	13	41	20	33
	30 - 39	24	25	0	-	9	28	15	25
	40 - 49	23	24	1	25	5	16	17	28
	50+	14	14	1	25	5	16	8	13
<b>GENDER</b>	Male	75	77	2	50	25	78	48	79
	Female	22	23	2	50	7	22	13	21

Percentages were rounded to the nearest whole number.

**SAN FRANCISCO SHERIFF'S DEPARTMENT**  
**USE OF FORCE BY RACE, AGE & GENDER**  
**April 1, 2016 - June 30, 2016**

		Total Department (9)		Admin/Programs (0)		Custody (4)		Field (5)	
		Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
<b>RACE</b>	Asian/Pacific Islander	1	11	0	-	1	25	0	-
	American Indian/Alaskan	0	-	0	-	0	-	0	-
	Black	2	22	0	-	1	25	1	20
	Hispanic	1	11	0	-	0	-	1	20
	White	5	56	0	-	2	50	3	60
<b>AGE</b>	18 - 29	1	11	0	-	0	-	1	20
	30 - 39	2	22	0	-	1	25	1	20
	40 - 49	1	11	0	-	0	-	1	20
	50+	5	56	0	-	3	75	2	40
<b>GENDER</b>	Male	10	100	0	-	4	100	5	100
	Female	0	-	0	-	0	-	0	-

As defined by Administrative Code, Chapter 96A: Law Enforcement Reporting Requirements, use of force is "a deputy's use of force on an individual that results in a known injury."



BOS-11, (page)



CITY & COUNTY OF SAN FRANCISCO  
TREASURE ISLAND DEVELOPMENT AUTHORITY  
ONE AVENUE OF THE PALMS,  
2<sup>ND</sup> FLOOR, TREASURE ISLAND  
SAN FRANCISCO, CA 94130  
(415) 274-0660 FAX (415) 274-0299  
WWW.SFTREASUREISLAND.ORG

ROBERT BECK  
TREASURE ISLAND DIRECTOR

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AK

October 4, 2016

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

Dear Ms. Calvillo

Please find enclosed the revised Clipper Cove Special Use Area Rules and Regulations ("Rules and Regulations"), effective October 1, 2016. These revised Rules and Regulations were approved by the TIDA Board of Directors at its September 14, 2016 meeting, following a 10 day public comment period.

These revised Rules and Regulations are submitted to the Clerk of the Board for filing as required by Board of Supervisors Ordinance 010-13 passed on January 29, 2013.

Should your office have any questions, please contact me at 415-274-0665.

Sincerely,

Peter Summerville

Cc: file  
San Francisco Police Department, Marine Unit (w/out enclosure)

Enclosures

9



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AK

## Clipper Cove Special-Use Area Rules and Regulations<sup>1</sup>

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### **I. INTRODUCTION.**

<sup>1</sup> These revised “Clipper Cove Special-Use Area Rules and Regulations” dated October 1, 2016 supersede, the version dated November 14, 2012

These Clipper Cove Rules and Regulations govern the use, mooring, anchoring and occupancy of vessels in Clipper Cove at former Naval Station Treasure Island, in conjunction with San Francisco Police Code Section 1.1 (Attachment A).

Pursuant to San Francisco Police Code Section 1.1, Clipper Cove is a Special-Use Area, as that term is defined and used in the California Harbors and Navigation Code (*see* §§651, 660). Police Code Section 1.1 was adopted in order to address the threat to public safety posed by unattended vessels anchored in Clipper Cove for extended periods of time, and to preserve the Clipper Cove ecosystem from potential harmful release of waste and toxics.

A valid Anchorage Permit issued by the Treasure Island Development Authority (TIDA) is required for stays in excess of 24 hours.

## **II. GENERAL PROVISIONS.**

- A. Observation of Rules and Regulations.** These Rules and Regulations must be observed at all times. Failure to comply with the Rules and Regulations is grounds for TIDA to deny issuance of an Anchorage Permit or to revoke an issued Anchorage Permit.
- B. Use of Terms.** In these Rules and Regulations, the terms “anchor,” “anchored,” “anchorage,” “anchoring,” “moored,” and “mooring,” are used interchangeably; if one such term is used, the others are included.
- C. Director’s Policies and Procedures.** The Director of Island Operations may promulgate Policies and Procedures to implement the overall objectives of these Clipper Cove Rules and Regulations as deemed necessary to comply with the intent of Police Code Section 1.1, upon 45 days public notice to the TIDA Board of Directors, and subject to modification by that Board.

## **III. STANDARDS AND REQUIREMENTS FOR ALL VESSELS.**

- A. Standards and Requirements for All Vessels in Clipper Cove.** All vessels in Clipper Cove must comply with the following provisions.
  - 1. All vessels in Clipper Cove must have current registration and furnish proof of such upon request.
  - 2. Proof of Vessel ownership must be provided upon request.
  - 3. All vessels must be in a seaworthy condition at all times during anchorage in Clipper Cove.

4. All vessels must possess a functioning, fully contained on-board waste collection and sanitary system. On-board waste collection and sanitary systems must be permanently installed and of a standard on-vessel nature and design.
5. No person may live aboard any vessel anchored in Clipper Cove. This prohibition against living aboard vessels shall not prevent the use of vessels in Clipper Cove for eating and sleeping purposes during any period that the vessel is moored or anchored in Clipper Cove in compliance with these Rules and Regulations and Police Code Section 1.1.
6. All vessels must have a propulsion engine capable of carrying the vessel out of Clipper Cove.
7. All vessels must permit sanitary, safety and seaworthiness inspections when requested by TIDA or the SFPD Marine Unit.
8. Pumping of vessel sanitary systems into Clipper Cove or placing waste or refuse of any kind in Clipper Cove is prohibited at all times.
9. Vessel owners shall be responsible for all equipment and appurtenances associated with the vessel.
10. Clipper Cove is a designated No Wake Zone, and no speeds above 5 MPH are allowed.
11. Vessels shall not anchor in a way that poses a navigational hazard to other vessels attempting to enter, exit or navigate in Clipper Cove.
12. Mooring lines must be sufficient to keep vessels safely and securely anchored at all times while in Clipper Cove.
13. Vessel owners, vessel operators and vessel occupants shall not create any annoyance, nuisance or hazard to Clipper Cove or to any other persons or vessels located therein.
14. Vessels may not be left unattended for a period of more than 12 hours.
15. Mooring and anchorage of vessels in Clipper Cove is at the sole risk of the vessel operator and vessel owner.
16. Commercial operations within Clipper Cove, including salvage of materials, are prohibited without an Authority Use Permit authorizing such operations.
17. Vessel owners, vessel operators and vessel occupants shall comply with the following provision governing public access to Clipper Cove Beach:
  - Clipper Cove Beach public access hours are from sunrise to sunset.

- Overnight camping is prohibited.
  - Fires are prohibited.
  - Littering is prohibited.
18. No vessel shall enter the restricted water and shoreline area of Clipper Cove that is under active environmental monitoring, as delineated by the field of white buoys along the northern shoreline of Yerba Buena Island; nor shall any vessel owner or operator disembark from a vessel, or allow any occupants of a vessel to disembark from a vessel, onto the Yerba Buena Island shoreline within this restricted area without prior written authorization from the California Department of Transportation.
  19. Vessel owners, vessel operators and vessel occupants shall at all times comply with all applicable municipal, county, state and U.S. Coast Guard laws and regulations.
  20. Use and operation of personal watercraft, as further defined in San Francisco Police Code Section 4700.2, is prohibited within Clipper Cove.

#### **IV. PROCEDURES FOR ISSUANCE AND MANAGEMENT OF CLIPPER COVE ANCHORAGE PERMITS.**

**A. 24-Hour Anchorage.** For Vessels anchoring in Clipper Cove for a period not to exceed 24 hours:

1. No Anchorage Permit is required.
2. Anchoring or otherwise remaining in Clipper Cove after 24 hours may result in an infraction or misdemeanor citation by the SFPD Marine Unit or other action, including but not limited to, towing and removal of the vessel by TIDA.

**B. Short-Term Anchorage Permit, for 24–96 Hours.** For Vessels anchoring in Clipper Cove for a period of more than 24 hours and up to 96 hours:

1. All vessel owners or vessel operators wishing to anchor a vessel in Clipper Cove for a period of more than 24 hours up to 96 hours must notify TIDA and provide the vessel name, vessel CF number, contact information, the date and time of initial entry to Clipper Cove and anticipated date and time of exit from Clipper Cove. This notification requirement applies even if the anchorage or presence of the vessel in Clipper Cove will be intermittent during that time period. The required notification may be provided in one of the following ways:

- Voicemail message left at 415-274-0382

- Register on the TIDA website at [www.sftreasureisland.org/cove/ShortTerm](http://www.sftreasureisland.org/cove/ShortTerm)
2. This notification may be provided to TIDA in advance of anchorage in Clipper Cove. At the latest, this information must be provided immediately upon entry of the vessel into the Cove. No further action is required for stays in Clipper Cove of 96 hours or less.
  3. A Short-Term Anchorage Permit will be deemed to be issued for all vessels complying with this notification requirement, unless TIDA informs the vessel owner or vessel operator that a Short-Term Anchorage Permit will not be issued due to non-compliance with the Short-Term Anchorage notification requirement or other violation of the Rules and Regulations.
  4. When a Short-Term Anchorage Permit issued to a vessel, vessel owner or vessel operator expires, that vessel, vessel owner or vessel operator shall not be eligible:
    - For issuance of a consecutive Short-Term Anchorage Permit, but may be issued up to two Short-Term Anchorage Permits within a 21-day period.
    - For issuance of a Long-Term Anchorage Permit until a period of at least 21 days has elapsed.
  5. A Permittee shall not be allowed to anchor or otherwise remain in Clipper Cove after expiration of the Short-Term Anchorage Permit, including any valid extension, and doing so may result in an infraction or misdemeanor citation by the SFPD Marine Unit or other action, including but not limited to, towing and removal of the vessel by TIDA.

**C. Long-Term Anchorage Permit, for 96 Hours to 10 Days.** For Vessels anchoring in Clipper Cove for a period of more than 96 hours and up to 10 days:

1. All vessel owners or vessel operators wishing to anchor a vessel in Clipper Cove for a period of more than 96 hours up to 10 days must complete a Clipper Cove Long-Term Anchorage Application (“Anchorage Application”) available at the TIDA office, One Avenue of Palms, Second Floor, Treasure Island. This application requirement applies even if the anchorage or presence of the vessel in Clipper Cove will be intermittent during that time period.
2. Upon receipt of the completed Long-Term Anchorage Application, TIDA will review the information. So long as the Application is properly completed and the vessel is in compliance with the Rules and Regulations, TIDA will issue the Clipper Cove Long-Term Anchorage Permit.
3. The Long-Term Anchorage Permit will be issued at NO CHARGE to the vessel owner. A vessel will be allowed to anchor in Clipper Cove for the term of that Permit, subject to compliance with all Rules and Regulations.

4. When a Long-Term Anchorage Permit issued to a vessel, vessel owner or vessel operator expires, that vessel, vessel owner or vessel operator shall not be eligible for issuance of a subsequent Short-Term or Long-Term Anchorage Permit until a period of at least 21 days has elapsed.
5. A vessel, vessel owner or vessel operator may be issued up to four non-consecutive Long-Term Anchorage Permits in any calendar year.
6. The Long-Term Anchorage Permit must be kept on-board the vessel at all times during the anchorage period. The vessel is required to vacate Clipper Cove on or before the expiration date stated on the Long-Term Anchorage Permit.
7. A Permittee shall not be allowed to anchor or otherwise remain in Clipper Cove after expiration of the Long-Term Anchorage Permit, including any valid extension, and doing so may result in an infraction or misdemeanor citation by the SFPD Marine Unit or other action, including but not limited to, towing and removal of the vessel by TIDA.

**D. Extension of Short-Term Anchorage Permit Term.** A Short-Term Anchorage Permit extension may be granted for up to an additional 24 hours at the discretion of the Director of Island Operations due to:

- An immediate, verifiable threat to life safety or property posed by movement of the vessel;
- Weather conditions rendering travel unsafe; or,
- Other safety issues.

Requests for extension shall be made in writing and submitted via e-mail or in person at the TIDA office before the expiration date of the Short-Term Anchorage Permit. If an extension is not granted, the vessel must vacate Clipper Cove within 96 hours of entry of the vessel into Clipper Cove.

**E. Extension of Long-Term Anchorage Permit Term.** A Long-Term Anchorage Permit extension may be granted for up to an additional seven (7) days at the discretion of the Director of Island Operations due to:

- An immediate, verifiable threat to life safety or property posed by movement of the vessel;
- Weather conditions rendering travel unsafe; or,
- Other safety issues.

Requests for extension shall be made in writing and submitted via e-mail or in person at the TIDA office before the expiration date of the Long-Term Anchorage Permit. If an extension is not granted, the vessel must vacate Clipper Cove on or before the original expiration date stated on the Long-Term Anchorage Permit.

**F. Anchorage Permit Limitations, Suspension, Revocation.** Anchorage Permit limitations, and suspension and revocation provisions, are as follows:

1. TIDA may refuse issuance of an Anchorage Permit to any vessel in violation of the Rules and Regulations, and to any vessel in receipt of a Notice of Violation.
2. TIDA may revoke an Anchorage Permit on any of the following grounds:
  - Violation of the Rules and Regulations.
  - The vessel poses a danger to life safety or property.
  - The San Francisco Police Department or other applicable law enforcement agency has cited the vessel owner, vessel operator or vessel occupants for violation of any ordinance, statute, or regulation.
  - The provision of false information to obtain a Short-Term Anchorage Permit, or the provision of false information on the Clipper Cove Long-Term Anchorage Permit Application.
  - The presence of the vessel is impeding critical operations in Clipper Cove, including but not limited to, Navy remediation activities, Special Events taking place in Clipper Cove, Bay Bridge construction activities, and emergency response and recovery activities.
3. TIDA may suspend issuance of Anchorage Permits for any length of time it deems necessary to further on-Island operations including but not limited to, Navy remediation activities, Special Events taking place in Clipper Cove, Bay Bridge construction activities, and emergency response and recovery activities.
4. No person will be issued a Short-Term or Long-Term Anchorage Permit for more than one vessel at any given time.

**V. NOTICE OF VIOLATION, NOTICE OF REMOVAL, AND DISPOSAL OF UNCLAIMED VESSELS.**

The following provisions shall be implemented consistent with California Harbors and Navigation Code Section 526 and related provisions (Attachment C).

**A. Notice of Violation.**

1. Vessels will be in violation of Police Code Section 1.1 and will be affixed with a distinctive, visible Notice of Violation if they are moored or anchored in Clipper Cove for more than 24 hours without a valid Anchorage Permit, or moored or anchored in Clipper Cove after expiration or revocation of an Anchorage Permit, including any valid extension.



2. Vessels affixed with a Notice of Violation shall have 72 hours to vacate Clipper Cove. A vessel that has not vacated Clipper Cove within 72 hours of the Notice of Violation will be removed by TIDA or its designee, and the registered owner of the vessel will be responsible for the cost of such removal and storage. In addition, the SFPD Marine Unit may issue an infraction or misdemeanor citation.

**B. Notice of Removal.**

1. Within 48 hours after TIDA or its designee removes a vessel that is in violation Police Code Section 1.1, excluding weekends and holidays, TIDA shall mail a Notice of Removal to the registered vessel owner.
2. TIDA shall send this Notice of Removal of the vessel via certified or first class mail, and shall also send the Notice or Removal to any other person that TIDA knows has an interest in the vessel. This Notice of Removal shall include the following information:
  - a. TIDA's name, address and telephone number, and the name, address and telephone number of any applicable designee of TIDA;
  - b. A description of the vessel.
  - c. The location from which the vessel was removed.
  - d. The location of the intended or actual place of storage.
  - e. The authority and purpose for removal of the vessel.
  - f. A statement that the vessel may be claimed and recovered within 15 days of the date the Notice of Removal is issued upon payment of any costs incurred by TIDA, or its designee, related to salvage and storage of the vessel.
  - g. A statement that the registered or legal owners or any other person known to have an interest in the vessel shall have the opportunity for a Post-Removal Hearing ("Hearing") before TIDA, or its designee, to determine the validity of the removal and storage if a request for a Hearing is made to TIDA in person, by telephone, by email, or by regular mail, within 10 days after the date of Notice of Removal; and that if the registered or legal owner or any other person known to have an interest in the vessel disagrees with the decision of TIDA, or its designee after the Hearing, he or she may seek review of the decision of TIDA pursuant to Section 11523 of the California Government Code (Attachment D).
3. The registered or legal owner of any vessel removed or stored under this process shall be responsible for reimbursing TIDA for the cost of such removal or storage.

TIDA shall schedule any requested Hearing to determine the validity of the removal and storage within 48 hours of the time it receives such request, excluding weekends and holidays. TIDA may authorize its own officers or employees to conduct the Hearing, but the Hearing Officer shall not be the same person who directed removal and storage of the vessel. The failure of either the registered or legal owner or any other person known to have an interest in the property to request or attend a scheduled Hearing shall not affect the validity of the Hearing.

### **C. Disposal of Unclaimed Vessels.**

1. Once the Notice of Removal has been appropriately transmitted and the time period to request a Post-Removal Hearing has expired without TIDA receiving a request for Hearing, or if a request for Hearing was received, the Hearing was held and a determination was made in TIDA's favor, TIDA shall contract with a marine lien sales company, and this company shall facilitate the lien sale of the unclaimed vessel from its current storage location.
2. Following the lien sale of the vessel, the marine lien sale agent shall provide a final 10 day notice to the registered or legal owner of the vessel, and any additional known interested parties, of the execution of a lien sale. After this 10 day period, if the vessel was not bought at lien sale or claimed, TIDA shall dispose of the vessel via contract with a marine salvage and disposal company.

## **VI. ADMINISTRATIVE CITATIONS AND FINES.**

In addition to other available enforcement provisions, the TIDA Director or designee may issue an administrative citation that imposes an administrative fine for violation of any provision of Police Code §1.1 or these Clipper Cove Special-Use Area Rules and Regulation, as provided by San Francisco Police Code §1.1(f) and San Francisco Administrative Code Chapter 100 (Attachments A and B).

- ATTACHMENT A:** San Francisco Police Code Section 1.1 “Clipper Cove Special-Use Area
- ATTACHMENT B:** San Francisco Administrative Code Chapter 100 “Procedures Governing the Imposition of Administrative Fines”
- ATTACHMENT C:** California Harbors and Navigation Code Section 526 “Disposal of wrecked property, abandoned property, or property removed from a navigable waterway; notice of removal; hearing” – *Available upon request.*
- ATTACHMENT D:** California Government Code Section 11523 “Judicial Review” – *Available upon request.*

San Francisco Police Code

**SEC. 1.1. CLIPPER COVE SPECIAL-USE AREA.**

(a) **Special-Use Area.** In order to promote the recreational use of Clipper Cove, reduce existing and potential conflicts among recreational users of Clipper Cove, protect the overall public health and safety of users of the Cove, and to eliminate adverse environmental impacts to the San Francisco Bay, Clipper Cove is hereby designated a Special-Use Area as that term is defined and used in California's Harbors and Navigation Code (*see*, California Harbors and Navigation Code §§ 651, 660).

(b) **Clipper Cove Defined.** For the purposes of Section 1.1 of this Code, Clipper Cove is defined as that section of San Francisco Bay bounded by the south shore of Treasure Island, the north shore of Yerba Buena Island, and the connecting causeway, west of a line extending from the southeast corner of the finger pier known as "Pier 1" along the east side of Treasure Island, at about latitude 37 [degrees] 49' 11", longitude 122 [degrees] 21' 40", approximately 153 [degrees] 20' to the northeasterly point of Yerba Buena Island, at about latitude 37 [degrees] 48' 55", longitude 122 [degrees] 21' 30".

(c) **Permit Requirements.**

(1) Treasure Island Development Authority ("TIDA") shall erect signage at the entrance to the Clipper Cove Special-Use Area informing boaters of permit requirements and the method for obtaining a permit;

(2) It shall be unlawful for a vessel to be moored, anchored, or otherwise allowed to remain in Clipper Cove for more than 24 hours without a valid permit or permit extension issued by TIDA or its designee; and,

(3) It shall be unlawful for any vessel to remain moored, anchored, or otherwise allowed to remain in Clipper Cove after expiration or revocation of such permit.

(d) **Salvage Prohibited.** It shall be unlawful for any person to conduct salvage operations or to be in possession of materials salvaged from Clipper Cove, without written permission from TIDA.

(e) **Criminal Penalties.** A violation of any of the provisions of Section 1.1 shall be a misdemeanor or an infraction. The complaint charging the violation shall specify whether the violation is a misdemeanor or infraction. Any violation may be charged and punished as a misdemeanor instead of an infraction; except that any violation of Section 1.1(d) "Salvage Prohibited" shall be charged and punished as a misdemeanor.

(1) A person found guilty of a misdemeanor shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000.00), or both.

(2) A person found guilty of an infraction shall be punished by a fine of up to \$100 for a first violation, and up to \$500 for a second violation within one year of the date of the first violation. If a person is charged with a third violation within one year of the date of the second or subsequent violation, it shall be charged as a misdemeanor.

(f) **Administrative Citation and Penalty.** The TIDA Director or designee may issue an administrative citation that imposes an administrative fine for violation of any provision of this Section 1.1 or the TIDA Clipper Cove Special Use Area Rules and Regulations. San Francisco Administrative Code Chapter 100 "Procedures Governing the Imposition of Administrative Fines" as it may be amended from time to time is hereby incorporated in its entirety, and shall govern the imposition, enforcement, collection and administrative review of administrative citations and penalties issued under this Subsection (f).

(g) **Removal and Storage of Vessels.**

(1) TIDA shall erect signage at the entrance to Clipper Cove informing boaters that vessels moored, anchored, or otherwise allowed to remain in Clipper Cove in violation of this Section 1.1 are subject to removal.

(2) TIDA or its designee may remove and store any vessel that is moored, anchored, or otherwise allowed to remain in Clipper Cove in violation of this ordinance, 72 hours after notice is posted in accordance with this Subsection (g). The registered owner of any vessel removed and stored under this Section 1.1 shall be responsible for reimbursing TIDA or its designee for the cost of such removal and storage.

(3) Not less than 72 hours prior to removing a vessel moored or anchored in violation of this Section 1.1, TIDA or its designee shall securely attach to the vessel a distinctive notice stating that the vessel will be removed for violation of this Section 1.1.

(4) Within 48 hours after the removal of a vessel pursuant to this Section 1.1, excluding weekends and holidays, TIDA or its designee must send notice of removal of the vessel by certified or first-class mail: to the registered and legal owners, if known or discovered before or after the removal, at their addresses of record with the Department of Motor Vehicles and the National Vessel Documentation Center, and to any other person that TIDA or its designee knows has an interest in the vessel.

(5) The notice of removal required by Subsections 1.1(g)(3) and (g)(4) shall include the following:

(A) TIDA's name, address, and telephone number, and, if applicable, the name, address and telephone number of TIDA's designee;

(B) A description of the vessel;

(C) The location from which the vessel was removed;

(D) The location of the intended or actual place of storage;

(E) The authority and purpose for removal of the vessel;

(F) A statement that the vessel may be claimed and recovered within 15 days of the date the notice of removal is issued upon payment of any costs incurred by TIDA or its designee related to salvage and storage of the vessel, and that following expiration of the 15-day period the property will be sold or otherwise disposed of by TIDA or its designee;

(G) A statement that the registered or legal owners or any other person known to have an interest in the property shall have the opportunity for a post-removal hearing before TIDA or its designee to determine the validity of the removal and storage, if a request for a hearing is made to TIDA or its designee in person, by telephone, by email or by regular mail within 10 days from

the date of notice; and that if the registered or legal owner or any other person known to have an interest in the property disagrees with the decision of TIDA or its designee after the hearing, he or she may seek review of the decision of TIDA or its designee pursuant to Government Code § 11523 and Harbors and Navigation Code § 526(b)(7) or their successor provisions.

(6) TIDA or its designee shall conduct any requested hearing within 48 hours of the time it receives the request, excluding weekends and holidays. TIDA may authorize its own officers or employees to conduct the hearing, but the hearing officer shall not be the same person who directed the removal and storage of the vessel. The failure of either the registered or legal owners or any other person known to have an interest in the property to request or attend a scheduled hearing shall not affect the validity of the hearing.

(7) TIDA shall be responsible for the costs incurred for removal and storage if it is determined in the post-storage hearing that valid grounds for the removal and storage were not established.

**(h) TIDA Clipper Cove Special-Use Area Rules and Regulations.**

(1) The Treasure Island Development Authority Board of Directors shall periodically review the TIDA Clipper Cove Special-Use Area Rules and Regulations regarding permits and related matters, and update as appropriate in conformance with this Section 1.1, California Harbors and Navigation Code, other applicable laws and regulations, and as otherwise deemed appropriate by the TIDA Board.

(2) A public hearing shall be conducted before any adoption, amendment, or repeal of any rule or regulation. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.

(i) The remedies, penalties and procedures provided under this Section are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures.

(Added by Ord. 193-09, File No. 090555, App. 8/20/2009; amended by Ord. 10-13, File No. 121030, App. 2/4/2013, Eff. 3/6/2013)

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## **CHAPTER 100: PROCEDURES GOVERNING THE IMPOSITION OF ADMINISTRATIVE FINES**

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- Sec. 100.1. Findings and Scope of Chapter.
- Sec. 100.2. Definitions.
- Sec. 100.3. Issuance and Service of Citations.
- Sec. 100.4. Notice to Owner of Real Property.
- Sec. 100.5. Determination of the Amount of the Administrative Fine When the Citation is Issued.
- Sec. 100.6. When Fines Due; Payment of Fine; Late Payment Fee; Notices by Charging Official.
- Sec. 100.7. Remedies Available to City for Non-Payment of Fines; Liens.
- Sec. 100.8. Right to Appeal.
- Sec. 100.9. Appeal Procedure; Appointment of Hearing Officer.
- Sec. 100.10. Charging Official Required to Submit Supporting Documents.
- Sec. 100.11. Hearing Procedures.
- Sec. 100.12. Requirement to Exhaust Administrative Remedies.
- Sec. 100.13. Advance Deposit Hardship Waiver—Undue Hardship.
- Sec. 100.14. Determination of the Hearing Officer.
- Sec. 100.15. Right to Judicial Review.
- Sec. 100.16. Controller May Adopt Regulations.

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### **SEC. 100.1. FINDINGS AND SCOPE OF CHAPTER.**

(a) The City and County of San Francisco (the "City") has a significant interest in encouraging compliance with its laws. To that end, City Codes often include a variety of remedies, including the right of City departments to issue citations to violators and to require such persons to pay an administrative fine.

(b) Moreover, the imposition of administrative fines is not intended to be punitive in nature, but is instead intended to compensate the public for the injury and damage caused by the prohibited conduct. The fines are intended to be reasonable and not disproportionate to the damage or injury to the City and the public caused by the prohibited conduct.

(c) To date, the City has not enacted an ordinance establishing standard procedures for the imposition, enforcement, collection, and administrative review of administrative citations and fines for violation of City ordinances. Rather, the Board has enacted a variety of ordinances authorizing administrative fines but has included separate procedures in each ordinance.

(d) The Board adopts this Chapter to provide standard procedures for the imposition, enforcement, collection, and administrative review of administrative citations and fines. However, the Board recognizes that these procedures may not be appropriate to use in whole or in part for all City ordinances. Therefore, this Chapter applies only to citation procedures set forth in an ordinance that incorporates this Chapter, subject to any exceptions provided in that ordinance.

(e) The procedures set forth in this Chapter are adopted pursuant to Government Code Section 53069.4 which governs the imposition, enforcement, collection, and administrative review of administrative citations and fines by local agencies, and pursuant to the City's home rule power over its municipal affairs.

(f) The determination by the City to impose, enforce, collect and provide administrative review of administrative fines pursuant to this Chapter is solely at the City's discretion and is only one option available to the City to seek redress for the violation of its ordinances. By adopting this Chapter, and subsequent legislation incorporating the procedures in this Chapter, the Board does not intend to limit the ability of the City to use any other remedy, civil or criminal, which may be available in a particular case. The City may use the procedures set forth in this Chapter as an alternative to, or in conjunction with, any other available remedy.

(g) In compliance with Government Code Section 53069.4(a)(2), if an ordinance pertains to building, plumbing, electrical, or other similar structural or zoning issues, the ordinance shall provide a reasonable period of time for a person responsible for a continuing violation of the ordinance to correct or otherwise remedy the violation prior to imposition of administrative fines, unless the violation creates an immediate danger to health or safety.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.2. DEFINITIONS.**

The following definitions shall apply to this Chapter.

(a) "Charging official" means a City officer or employee with authority to enforce the ordinance for which citations may issue or a person designated by the charging official to act on his or her behalf.

(b) "Citation" means an administrative citation issued pursuant to this Chapter stating that the charging official has determined that there has been a violation of one or more provisions of a City ordinance, which ordinance incorporates this Chapter in whole or in part.

(c) "Controller" means the Controller for the City and County of San Francisco or a person designated by the Controller to act on his or her behalf.

(d) "Fine" means the dollar amount of the administrative fine that the person cited is required to pay for violation of an ordinance as set forth by the charging official in the citation.

(e) "Person" means a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, joint venture, or club, or its manager, lessee, agent, servant, officer or employee.

(f) "Serve" or "service" means either personal delivery or deposit in the United States Mail, first class, in a sealed envelope postage prepaid. Service shall include a declaration under penalty of perjury setting forth the date of personal delivery or, for service by mail, the date of deposit in the mail. Service by personal delivery shall be deemed complete on the date of the delivery. Service by mail shall be deemed complete on the date of deposit in the mail.

(g) "Violation" means a violation of an ordinance for which the charging official has authority to issue a citation.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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### **SEC. 100.3. ISSUANCE AND SERVICE OF CITATIONS.**

(a) (1) Whenever a charging official determines that a violation of an ordinance for which that official has enforcement authority has occurred, the charging official may issue and serve a citation on any person responsible for the violation.

(2) Where there is a nexus between the violation and real property located in the City as set forth in Section 100.4, the charging official may also provide notice of the citation to the owner of the real property as provided in Section 100.4. The City may not impose a lien on the property under Section 100.7(b) unless the charging official provides this notice.

(b) The citation shall contain the following information:

(1) The name of the person to whom the citation is issued;

(2) Identification of the provision or provisions of the ordinance violated. The charging official may issue a single citation for multiple violations of an ordinance or for violation of multiple provisions of an ordinance;

(3) A description of the condition or circumstances constituting the violation(s), including the address or location and date of the violation;

(4) The amount of the fine imposed for each violation;

(5) The date by which the fine must be paid, the procedure for making payment (including to whom payment must be made and acceptable forms of payment), and the consequences of the failure to pay;

(6) The right to seek administrative review of the citation by filing an appeal with the Controller within 30 days of the date that the citation is served and notice that the failure to appeal will make the issuance of the citation a final action by the City for which there is no further administrative review and no judicial review; and

(7) The date the citation is issued and the name and signature of the charging official.



(c) When serving a citation, the charging official shall also serve a form for appealing the citation pursuant to the procedure as set forth in Section 100.9. The form shall be prescribed by the Controller and shall include a description of the procedure for seeking administrative review of the citation, including the deadline for filing the appeal and the requirement in Section 100.9 that the person appealing either deposit the amount of the fine set forth in the citation or file an application for an advance deposit hardship waiver. The appeal form shall require the appellant to provide a mailing address, a street address, a telephone number, and any other contact information that the Controller determines appropriate. The failure by the charging official to serve the appeal form with the citation shall not invalidate the citation or require any change in the procedures provided in this Chapter.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.4. NOTICE TO OWNER OF REAL PROPERTY.**

(a) Where there is a nexus between the violation and real property located in the City, the charging official may provide notice of the citation to the owner of the real property as set forth in this Subsection and that unpaid fines for the citations may become a lien on the property. If the charging official gives this notice, the official shall do so within three City business days of service of the notice on the person cited.

(1) Post one copy of the citation in a conspicuous place upon the building or real property.

(2) Serve one copy of the citation on each of the following:

(A) The person, if any, in real or apparent charge or control of the premises or property involved;

(B) The owner of record.

(b) When serving a copy of the citation as provided in Subsection (a)(2), the charging official shall include written notice of the following:

(1) That the owner of the property has the right to seek administrative review of the citation by filing an appeal with the Controller within 30 days of the date of service of the notice to the property owner.

(2) That the failure by all persons authorized to appeal the citation under this Chapter to file such an appeal will make the issuance of the citation a final action by the City as to all such persons, for which there is no further administrative review and no judicial review.

(c) For purposes of this Chapter, there is a nexus between a violation and real property where an activity or condition on the real property has caused, contributed to, or been a substantial factor in causing, the violation.

(d) The City may not impose a lien on the property under Section 100.7(b) unless the charging official provides notice to the property owner as set forth in this Section.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.5. DETERMINATION OF THE AMOUNT OF THE ADMINISTRATIVE FINE WHEN THE CITATION IS ISSUED.**

(a) Unless the ordinance under which the citation is issued otherwise provides, the amount of the fine set by the charging official shall be governed by this Section:

(1) The amount of the fine for violation of an ordinance that also makes violation an infraction shall be (1) up to \$100.00 for a first violation of the ordinance; (2) up to \$200.00 for a second violation of the same ordinance within one year of the date of the first violation; and (3) up to \$500.00 for each additional violation of the same ordinance within one year of the date of a second or subsequent violation.

(2) The amount of the fine for violation of an ordinance that also makes violation a misdemeanor shall be up to \$1000.00.

(3) The amount of the fine for violation of an ordinance that does not provide for a criminal penalty shall be up to \$1000.00.

(4) In determining the amount of the fine, the charging official may take any or all of the following factors into consideration:

- (A) The duration of the violation;
- (B) The frequency, recurrence and number of violations by the same violator;
- (C) The seriousness of the violation;
- (D) The good faith efforts of the violator to correct the violation;
- (E) The economic impact of the fine on the violator;
- (F) The injury or damage, if any, suffered by any member of the public;
- (G) The impact of the violation on the community;
- (H) The amount of City staff time, which was, expended investigating or addressing the violation;
- (I) The amount of fines imposed by the charging official in similar situations;
- (J) Such other factors as justice may require.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.6. WHEN FINES DUE; PAYMENT OF FINE; LATE PAYMENT FEE; NOTICES BY CHARGING OFFICIAL.**

(a) The citation shall set forth the date by which the fine is required to be paid, which date shall allow at least 30 days for payment from the date that the citation is served. The fine shall be due and payable on or before the date set forth in the citation, unless the person cited has filed a timely appeal in compliance with the requirements of Section 100.9.

(b) The due date for fines set forth in citations for which an appeal has been filed under Section 100.9 are due and payable on the date required under Sections 100.9(c)(2) and (d) and 100.14(b).

(c) Fines that remain unpaid 30 days after the due date shall be subject to a late payment penalty of 10 percent plus interest at the rate of 1 percent per month on the outstanding balance, which shall be added to the penalty amount from the date that payment is due.

(d) All fines and late payment fees shall be payable to the City and deposited in the City's general fund, unless the payment is made pursuant to an ordinance that provides otherwise.

(e) If the fine is unpaid by the date that it is due under this Chapter, the charging official shall serve notice within 30 days of the delinquency that fines not paid by the due date are subject to a late payment penalty as provided in Subsection (c). Where there is a nexus between the violation and real property against which the City may impose a lien for non-payment of the citation as provided in Section 100.7(b), the charging official may serve notice to the owner of such property that the person cited has not timely paid the citation and that the charging official may initiate proceedings to make the amount due and all additional authorized costs and charges, including attorneys fees, a lien on the property. If the charging official does not provide the notice set forth in this Subsection, the City may not impose a lien on the property under Section 100.7(b).

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.7. REMEDIES AVAILABLE TO CITY FOR NON-PAYMENT OF FINES; LIENS.**

(a) The amount of any fine not paid within the time required under this Chapter, including the amount of any applicable late payment charges, constitutes a debt to the City. The City may file a civil action or pursue any other legal remedy to collect such money. In any civil action to obtain payment of the fine, and any late payment penalties, the City shall be entitled to obtain a judgment for the amount of the unpaid fines and penalty payments and, in addition, for the costs and attorneys' fees incurred by the City in bringing any civil action to enforce the provisions of this Section.

(b) Where there is a nexus between the violation and real property located in the City as defined in Section 100.4(c), the charging official may initiate proceedings to make the payment amount due and all additional authorized costs and charges, including attorneys' fees, a lien on the property. Such liens shall be imposed in accordance with San Francisco Administrative Code Sections 10.230—10.237, or any successor provisions. Before initiating lien proceedings, the charging official shall send a request for payment under San Francisco Administrative Code Section 10.230A.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.8. RIGHT TO APPEAL.**

Any person who has been served with a citation, including property owners who receive notice of the citation under Section 100.4, may seek administrative review of the citation by filing an appeal with the Controller as provided in Section 100.9. The grounds for any such appeal shall be that there was no violation of the ordinance for which the citation was issued or that the person cited did not commit the violation.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.9. APPEAL PROCEDURE; APPOINTMENT OF HEARING OFFICER.**

(a) Any person who seeks the administrative review of a citation may file an appeal no later than 30 days from the date of service of the citation. An appeal shall be deemed filed on the date that the Controller receives it. At the time that the appeal is filed, the appellant must either deposit with the Controller the full amount of the fine required under the citation or must file an application for an advance deposit hardship waiver, as set forth in Section 100.13. The Controller shall promptly send notice to the charging official of an appeal filed in compliance with this Subsection.

(b) The Controller shall take the following actions within 10 days of receiving an appeal filed with the deposit required in Subsection (a): (1) appoint a hearing officer, (2) set a date for the hearing, which date shall be no less than 10 and no more than 60 days from the date that the appeal was filed, and (3) send written notice of the hearing date to the appellant and the charging official.

(c) The Controller shall, within 10 days of receiving an appeal filed with an application for an advance deposit hardship waiver, determine whether to grant or deny the waiver, as set forth in Section 100.13.

(1) If the Controller grants the waiver, the Controller shall promptly (1) appoint a hearing officer, (2) set a date for the hearing, which date shall be no less than 10 and no more than 60 days from the date that the appeal was filed, and (3) send written notice of the hearing date to the appellant and the charging official.

(2) If the Controller denies the waiver, the Controller shall serve the determination on the applicant and the charging official and shall require the applicant to make the required deposit within 10 days from service of the notice. If the person fails to comply with the requirement within 10 days, the Controller shall consider the appeal withdrawn and shall serve written notice to the person who filed the appeal and to the charging official that the appeal has been withdrawn. Upon receiving notice of the withdrawn appeal, the charging official shall serve written notice on the person cited that the fine set forth in the citation is due and payable on or before the tenth day after service of the notice.

(d) Upon receiving an appeal that is filed without either the required deposit or an application for an advance deposit hardship waiver, the Controller shall provide written notice to the person who filed the appeal that such person must either make the deposit or file the waiver application. The Controller shall provide the person 10 days from service of the notice to comply. If the person fails to comply with the requirement within 10 days, the Controller shall consider the appeal withdrawn and shall serve written notice on the person who filed the appeal and the charging official that the appeal has been withdrawn. Upon receiving notice of the withdrawn appeal, the charging official shall serve written notice that the fine set forth in the citation is due and payable on or before the tenth day after service of the notice.

(e) If the person cited fails to pay the fine within the 10 days required under Subsections (c) (2) or (d), the charging official shall serve notice of the late payment penalty that will become due for fines that remain unpaid 30 days after the due date as provided in Section 100.6(c). Where there is a nexus between the violation and real property against which the City may impose a lien for non-payment of the citation as provided in Section 100.7(b), the charging official may serve a copy of this notice on the owner of the property and, if such notice is given,

shall also provide notice that the charging official may initiate lien proceedings to make the amount due under the citation and all additional authorized costs and charges, including attorneys fees, a lien on the property. If the charging official does not provide the notice to the property owner required under this Subsection, the City may not impose a lien on the property under Section 100.7(b).

(f) When more than one person files an appeal of a citation, payment by any appellant shall satisfy the deposit requirement for all appellants.

(g) The provisions of this Section 100.9 requiring the Controller or Charging Official to act by a specific date are directory. The failure of the Controller or Charging Official to take action within the time specified shall not deprive that person of jurisdiction over the matter or of the right to take action at a later time, unless to do so would unreasonably prejudice persons issued citations. This Subsection 100.9(g) shall not apply to the requirements of this Section governing notice to the owners of real property where there is a nexus between the violation and the property as defined in Section 100.4(c).

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.10. CHARGING OFFICIAL REQUIRED TO SUBMIT SUPPORTING DOCUMENTS.**

Upon receiving notice that the Controller has scheduled a hearing on an appeal, the charging official shall, within three City business days, serve the appellant and the hearing officer with records, materials, photographs, and other evidence on which the charging official intends to rely at the hearing to support the citation. The charging official may serve this information at any earlier time; if the Controller has not yet appointed a hearing officer, the charging official may serve the information on the Controller, who shall provide it to the person appointed as hearing officer. If the charging official does not serve the information required under this Section within three City business days, the hearing officer may grant a request by the charging official to allow later service and may find good cause to continue the hearing because of the delayed service.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.11. HEARING PROCEDURES.**

(a) The hearing officer shall conduct all appeal hearings under this Chapter and shall be responsible for deciding all matters relating to the hearing procedures not otherwise specified in this Chapter or in regulations adopted by the Controller. The charging official shall have the burden of proof in the hearing. The hearing officer may continue the hearing at his or her own initiative or at the request of either party. The hearing officer may request additional information from the charging official or the person cited.

(b) The hearing need not be conducted according to technical rules of evidence and witnesses. Any relevant evidence is admissible if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(c) The following provisions shall also apply to the appeal procedure:

(1) A citation that complies with the requirements of Section 100.3(b) and any additional evidence submitted by the charging official pursuant to Section 100.10 shall be prima facie evidence of the facts contained therein;

(2) The appellant shall be given the opportunity to present evidence concerning the citation; and

(3) The hearing officer may accept testimony by declaration under penalty of perjury relating to the citation from any party if he or she determines it appropriate to do so under the circumstances of the case.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.12. REQUIREMENT TO EXHAUST ADMINISTRATIVE REMEDIES.**

(a) The failure of the person cited to take the actions set forth in Subsection (c) shall constitute a failure to exhaust administrative remedies and shall preclude the person cited from obtaining judicial review of the validity of the citation.

(b) Where there is a nexus between the violation for which a citation issued and real property as defined in Section 100.4(c), the failure of the owner of such property to take the actions set forth in Subsection (c) shall constitute a failure to exhaust administrative remedies and shall preclude the property owner from obtaining judicial review of the validity of the citation.

(c) This Section applies to the following:

(1) The failure to file an appeal within the time required by Section 100.9(a).

(2) The failure to file an application for a waiver of the deposit requirement within the time required by Section 100.9, unless another appellant has deposited the amount of the fine.

(3) The failure to complete the appeal by depositing the amount of the fine within the time required by Section 100.9, unless another appellant has done so.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.13. ADVANCE DEPOSIT HARDSHIP WAIVER - UNDUE HARDSHIP.**

(a) Any person may seek a waiver from the deposit requirement set forth in Section 100.9(a).

(b) The person requesting a waiver shall file an application on a form prescribed by the Controller, with supporting materials, no later than 30 days from the date of service of the citation. The supporting materials shall include a declaration under penalty of perjury setting forth the circumstances demonstrating that the deposit requirement would impose an undue hardship on the applicant, as well as any documents or other information that the applicant wants the Controller to consider in support of the application for a waiver.

(c) The Controller shall determine within 10 days of receiving the application whether to grant or deny a waiver, setting forth the reason for the determination. The Controller shall serve

the written determination on the applicant and the charging official. The Controller's written determination shall be a final administrative determination.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.14. DETERMINATION OF THE HEARING OFFICER.**

(a) After considering all of the testimony and evidence submitted by the parties, the hearing officer shall issue a written decision upholding, modifying or vacating the citation and shall set forth the reasons for the determination. The determination of the hearing officer shall be a final administrative determination.

(b) If the hearing officer upholds the citation, the City shall retain the amount of the fine that the appellant deposited with the City. If no appellant has deposited the fine with the City, the hearing officer shall set forth in the decision a schedule for payment of the fine. The person cited shall pay the fine by the date or dates set forth in the hearing officer's schedule and the failure to do so shall result in the assessment of late payment fees as set forth in Section 100.6(c).

(c) If the hearing officer vacates the citation, the City shall promptly refund the deposit. If the hearing officer partially vacates the citation, the City shall promptly refund that amount of the deposit that corresponds to the hearing officer's determination. The refund shall include interest at the average rate earned on the City's portfolio for the period of time that the City held the deposit as determined by the Controller.

(d) The hearing officer shall serve the appellant and the charging official with a copy of the determination and notice of the right of the appellant to seek judicial review pursuant to California Government Code Section 53069.4.

(e) Absent good cause, the hearing officer shall hear multiple appeals of a citation at the same time.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.15. RIGHT TO JUDICIAL REVIEW.**

(a) Any person aggrieved by the action of the hearing officer taken pursuant to this Chapter may obtain review of the administrative decision by filing a petition for review in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

(b) If a final order of a court of competent jurisdiction determines that the City has not properly imposed a fine pursuant to the provisions of this Chapter, and if the fine has been deposited with the City as required by Section 100.9, the City shall promptly refund the amount of the deposited fine, consistent with the court's determination, together with interest at the average rate earned on the City's portfolio for the period of time that the City held the fine amount as determined by the Controller.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.16. CONTROLLER MAY ADOPT REGULATIONS.**

The Controller may adopt regulations governing the citation and hearing procedure set forth in this Chapter.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)



**CALIFORNIA HARBORS AND NAVIGATION CODE - HNC**  
**DIVISION 3. VESSELS [399 - 786]**

*( Division 3 enacted by Stats. 1937, Ch. 368. )*

**CHAPTER 3. Wrecks and Salvage [510 - 571]**

*( Chapter 3 enacted by Stats. 1937, Ch. 368. )*

**ARTICLE 1. Wrecks and Wrecked Property [510 - 527]**

*( Article 1 enacted by Stats. 1937, Ch. 368. )*

**526.**

(a) Notwithstanding any other provision of law, any wrecked property that is an unseaworthy derelict or hulk, abandoned property as described in Section 522, or property removed from a navigable waterway pursuant to Section 523 or 524 that is an unseaworthy derelict or hulk, may be sold or otherwise disposed of by the public agency that removed or caused the removal of the property pursuant to this section, subject to the following conditions, except a surrendered vessel, as defined in Section 526.1, may be disposed of immediately upon acceptance by a public agency and is not subject to the following conditions:

(1) The property has been appraised by disinterested persons, and has an estimated value of less than two thousand dollars (\$2,000).

(2) There is no discernable registration, license, hull identification number, or other identifying insignia on the property, or the Department of Motor Vehicles is unable to produce any record of the registered or legal owners or lienholders.

(3) Not less than 72 hours before the property was removed, the peace officer or authorized public employee securely attached to the property a distinctive notice stating that the property would be removed by the public agency.

(4) Within 48 hours after the removal, excluding weekends and holidays, the public agency that removed or caused the removal of the property sent notice of the removal to the registered and legal owners, if known or discovered subsequent to the removal, at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the property. A notice sent by the public agency shall be sent by certified or first-class mail.

(5) If the public agency is unable to locate the registered and legal owners of the property or persons known to have an interest in the property as provided in paragraph (4), the public agency published, or caused to be published, the notice of removal for at least two weeks in succession in one or more daily newspapers circulated in the county.

(b) The notice of removal required by paragraphs (3) to (5), inclusive, of subdivision (a) shall state all of the following:

(1) The name, address, and telephone number of the public agency providing the notice.

(2) A description of the property removed.

(3) The location from which the property is to be or was removed.

(4) The location of the intended or actual place of storage.

(5) The authority and purpose for removal of the property.

(6) A statement that the property may be claimed and recovered within 15 days of the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, after payment of any costs incurred by the public agency related to salvage and storage of the property, and that following the expiration of the 15-day period, the property will be sold or otherwise disposed of by the public agency.

(7) A statement that the registered or legal owners or any other person known to have an interest in the property has the opportunity for a poststorage hearing before the public agency that removed, or caused the removal of, the property to determine the validity of the removal and storage if a request for a hearing is made in person or in writing to that public agency within 10 days from the date of notice; that if the registered or legal owners or any other person known to have an interest in the property disagree with the decision of the public agency, the decision may be reviewed pursuant to Section 11523 of the Government Code; and that during the time of the initial hearing, or during the time the decision is being reviewed pursuant to Section 11523 of the Government Code, the vessel in question shall not be sold or otherwise disposed of.

(c) (1) Any requested hearing shall be conducted within 48 hours of the time the request for a hearing is received by the public agency, excluding weekends and holidays. The public agency that removed the vehicle may authorize its own officers or employees to conduct the hearing, but the hearing officer shall not be the same person who directed the removal and storage of the property.

(2) The failure of either the registered or legal owners or any other person known to have an interest in the property to request or attend a scheduled hearing shall not affect the validity of the hearing.

(d) The property may be claimed and recovered by its registered and legal owners, or by any other person known to have an interest in the property, within 15 days of the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, after payment of any costs incurred by the public agency related to salvage and storage of the property.

(e) The property may be sold or otherwise disposed of by the public agency not less than 15 days from the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, or the date of actual removal, whichever is later.

(f) The proceeds from the sale of the property, after deducting expenses for salvage, storage, sales costs, and any property tax liens, shall be deposited in the Abandoned Watercraft Abatement Fund for grants to local agencies, as specified in paragraph (1) of subdivision (d) of Section 525.

(g) It is the intent of the Legislature that this section shall not be construed to authorize the lien sale or destruction of any seaworthy vessel, other than a surrendered vessel as

defined in Section 526.1, that is currently registered and operated in accordance with local, state, and federal law.

(h) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

*(Amended by Stats. 2009, Ch. 416, Sec. 3. Effective January 1, 2010. Repealed as of January 1, 2014, by its own provisions. See later operative version added by Sec. 4 of Ch. 416.)*

## **CALIFORNIA GOVERNMENT CODE - GOV**

### **TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]**

*( Title 2 enacted by Stats. 1943, Ch. 134. )*

#### **DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15986]**

*( Division 3 added by Stats. 1945, Ch. 111. )*

#### **PART 1. STATE DEPARTMENTS AND AGENCIES [11000 - 11840]**

*( Part 1 added by Stats. 1945, Ch. 111. )*

### **CHAPTER 5. Administrative Adjudication: Formal Hearing [11500 - 11529]**

*( Heading of Chapter 5 amended by Stats. 1995, Ch. 938, Sec. 22. )*

#### **11523.**

Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure, subject, however, to the statutes relating to the particular agency. Except as otherwise provided in this section, the petition shall be filed within 30 days after the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency. On request of the petitioner for a record of the proceedings, the complete record of the proceedings, or the parts thereof as are designated by the petitioner in the request, shall be prepared by the Office of Administrative Hearings or the agency and shall be delivered to the petitioner, within 30 days after the request, which time shall be extended for good cause shown, upon the payment of the cost for the preparation of the transcript, the cost for preparation of other portions of the record and for certification thereof. The complete record includes the pleadings, all notices and orders issued by the agency, any proposed decision by an administrative law judge, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence and any other papers in the case. If the petitioner, within 10 days after the last day on which reconsideration can be ordered, requests the agency to prepare all or any part of the record, the time within which a petition may be filed shall be extended until 30 days after its delivery to him or her. The agency may file with the court the original of any document in the record in lieu of a copy thereof. If the petitioner prevails in overturning the administrative decision following judicial review, the agency shall reimburse the petitioner for all costs of transcript preparation, compilation of the record, and certification.

*(Amended by Stats. 2005, Ch. 674, Sec. 23. Effective January 1, 2006. Operative July 1, 1997, by Sec. 98 of Ch. 938.)*

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**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: Safeway, v#16135 - 12(b) Waiver Request  
**Attachments:** Safeway 12b - \$123,000.pdf

**From:** Hon, Stephanie (DPH)  
**Sent:** Tuesday, October 04, 2016 10:24 AM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Cc:** Winchester, Tamra (ADM) <tamra.winchester@sfgov.org>  
**Subject:** Safeway, v#16135 - 12(b) Waiver Request

Board of Supervisor Required: Copy of Waiver Request Sent to Board of Supervisors

Attached 12b Waiver Request – Safeway, (v#16135), \$123,000.

For various units and clinics of the Department of Public Health to purchase gift cards for food items. These gift cards are incentives for client,s as a part of the treatment plan of meeting goals and services of direct-service programs in 20 Behavioral Health Services clinics.

September 19, 2016 through June 30, 2018

No Potential Contractors Comply.  
Administrative Code 12B.5-1(d)

Thank you,  
*Stephanie Hon*  
Office of Contract Management and Compliance  
1380 Howard Street, Rm 419a  
San Francisco, CA 94103  
415-255-3796 (Voice)

110

City and County of San Francisco



Edwin M. Lee  
Mayor

Department of Public Health

Barbara A. Garcia, MPA  
Director of Health

MEMORANDUM

TO: Romulus Asenloo, Acting Director, Contract Monitoring Division  
THROUGH: Barbara A. Garcia, MPA, Director of Health  
FROM: Jacquie Hale, Director, DPH Office of Contracts Management  
DATE: September 9, 2015  
SUBJECT: 12B Waiver

The Department of Public Health (DPH) respectfully requests approval of the attached 12B Waiver for the following:  
**Safeway (v#16135)**

**Commodity/Service:** For various units and clinics of the Department of Public Health to purchase gift cards for food items. This includes all Behavioral Health Services (CBHS), TB, HIV/AIDS and Laguna Honda clinics and departments. These gift cards are incentives for clients, as a part of the treatment plan of meeting goals and services of direct-service programs in 20 CBHS clinics.

**Amount:** \$123,000

**Funding Source:** General Funds, State and Federal Grants

**Term:** 09/19/2016 through 6/30/2018

*\*\* Exempt from 14B consideration when State or Federal funds are involved.*

**Rationale for this waiver:**

The treatment plan for many Department of Public Health (DPH) programs includes the provision of grocery gift cards and food items for clients. Back in 2015, the City conducted a bid for these commodities with the goal to identify stores within close proximity of these DPH clinics and office locations. However, no vendor responded to the solicitation. No Potential Contractors comply.

DPH is requesting to continue to use Safeway-despite its non-compliance with Administrative Code Section 12b-- as this grocery vendor that will meet the program needs. There are 15 Safeway stores within San Francisco, which are within close proximity to DPH facilities and clinics and they accept the city's purchase orders for food-only gift card purchases.

**Administrative Code Section 12b5-1.d (1).** No Potential Contractors Comply. For questions concerning this waiver request, please call the Office of Contract Management at 255-3796. Thank you for your consideration.



# CITY AND COUNTY OF SAN FRANCISCO CONTRACT MONITORING DIVISION

## S.F. ADMINISTRATIVE CODE CHAPTERS 12B and 14B WAIVER REQUEST FORM (CMD-201)

Send completed waiver requests to:  
cmd.waiverrequest@sfgov.org or  
CMD, 30 Van Ness Avenue, Suite 200, San Francisco, CA  
94102

FOR CMD USE ONLY
Request Number: _____

➤ **Section 1. Department Information**

Department Head Signature: 

Name of Department: Department of Public Health

Department Address: 101 Grove St. Rm 307 San Francisco CA 94102

Contact Person: Jacquie Hale, Director, Contract Management and Compliance

Phone Number: 554-2609 E-mail: Jacquie.Hale@sfdph.org

➤ **Section 2. Contractor Information**

Contractor Name: Safeway

Vendor No.: 16135

Contractor Address: 09/07/2016

Contact Person: \_\_\_\_\_ Contact Phone No.: \_\_\_\_\_

➤ **Section 3. Transaction Information**

Date Waiver Request Submitted: \_\_\_\_\_ Type of Contract: \_\_\_\_\_

Contract Start Date: 09/19/2016 End Date: 06/30/2018 Dollar Amount of Contract: \$ \$ 123,000.00

➤ **Section 4. Administrative Code Chapter to be Waived (please check all that apply)**

Chapter 12B

Chapter 14B *Note:* Employment and LBE subcontracting requirements may still be in force even when a 14B waiver (type A or B) is granted.

➤ **Section 5. Waiver Type (Letter of Justification *must* be attached, see Check List on back of page.)**

A. Sole Source

B. Emergency (pursuant to Administrative Code §6.60 or 21.15)

C. Public Entity

D. No Potential Contractors Comply (Required) Copy of waiver request sent to Board of Supervisors on: \_\_\_\_\_

E. Government Bulk Purchasing Arrangement (Required) Copy of waiver request sent to Board of Supervisors on: \_\_\_\_\_

F. Sham/Shell Entity (Required) Copy of waiver request sent to Board of Supervisors on: \_\_\_\_\_

G. Subcontracting Goals

H. Local Business Enterprise (LBE)

<b>CMD/HRC ACTION</b>	
12B Waiver Granted: _____	14B Waiver Granted: _____
12B Waiver Denied: _____	14B Waiver Denied: _____
Reason for Action: _____	
CMD Staff: _____	Date: _____
CMD Director: _____	Date: _____
HRC Director (12B Only): _____	Date: _____

805-11, cpage

Valerie Termini, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
www.fgc.ca.gov

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Commissioners**  
Eric Sklar, President  
Saint Helena  
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# Fish and Game Commission



Wildlife Heritage and Conservation  
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OCT 6 2016

October 5, 2016

## TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to Section 632, Title 14, California Code of Regulations, relating to tribal take in north coast marine protected areas, which will be published in the California Regulatory Notice Register on October 7, 2016.

Please note the date of the public hearings related to this matter and associated deadlines for receipt of written comments.

Sincerely,

Sherrie Fonbuena  
Associate Governmental Program Analyst

Attachment

11



**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205(c), 220, 240, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code, and to implement, interpret or make specific Sections 200, 202, 205(c), 220, 240, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code, proposes to amend Section 632, Title 14, California Code of Regulations, relating to tribal take in north coast marine protected areas.

**Informative Digest/Policy Statement Overview**

The Marine Life Protection Act (Fish and Game Code Sections 2850-2863) established a programmatic framework for designating marine protected areas (MPAs) in the form of a statewide network. The Marine Managed Areas Improvement Act (Public Resources Code Sections 36600-36900) standardized the designation of marine managed areas (MMAs), which include MPAs. The overriding goal of these acts is to protect, conserve, and help sustain California's valuable marine resources including maintaining natural biodiversity through adaptive management.

Existing regulations in Section 632, Title 14, California Code of Regulations (CCR) provide definitions, and site-specific area classifications, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses, including exemptions from the area and take regulations for those tribes in the north coast region that submitted factual records of historic and current uses in specific geographies.

**Proposed Amendments:**

The regulatory text in subsection 632(b)(6) is proposed to be amended to add Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria to the list of tribes exempt from the area and take regulations for Reading Rock State Marine Conservation Area.

The regulatory text in subsections 632(b)(1) and 632(b)(2) is proposed to be updated to reflect Smith River Rancheria's name change to Tolowa Dee-Ni' Nation.

Other changes are proposed for clarity and consistency

**Goals and Benefits of the Proposed Regulations**

The proposed regulations will provide clarity and consistency within the regulations and will align current exemptions from the area and take regulations in the north coast

region with factual records of historic and current uses submitted by federally recognized tribes to the Commission.

### Consistency with Other State Regulations

The proposed regulations are consistent with regulations concerning sport and commercial fishing and kelp harvest found in Title 14, CCR. The State Water Resources Control Board may designate State Water Quality Protection Areas and the State Park and Recreation Commission may designate State Marine Reserves, State Marine Conservation Areas, State Marine Recreational Management Areas, State Marine Parks and State Marine Cultural Preservation Areas; however, only the Fish and Game Commission has authority to regulate commercial and recreational fishing and any other taking of marine species in MMAs. Fish and Game Commission staff has searched the CCR and has found no other regulations pertaining to authorized activities in MPAs and therefore has determined that the proposed amendments are neither inconsistent, nor incompatible, with existing state regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Red Lion Hotel, 1929 4<sup>th</sup> Street, Eureka, California, on Wednesday, October 19, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton Garden Inn San Diego Mission Valley/Stadium, 3805 Murphy Canyon Road, San Diego, California, on Wednesday, December 7, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. **Written comments mailed to the address given below or emailed to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) must be received before 12:00 noon on December 2, 2016. All comments must be received no later than December 7, 2016, at the hearing in San Diego, California.** If you would like copies of any modifications to this proposal, please include your name and mailing address.

### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format can be accessed through our website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Sherrie Fonbuena at the preceding address or phone number.

### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### Impact of Regulatory Action/Results of the Economic Impact Assessment

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed amendments will neither increase nor decrease recreational or commercial fishing opportunities within marine protected areas..

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment, and Other Benefits:

The Commission does not anticipate any impacts on the creation or elimination of jobs, creation of new businesses, elimination of existing businesses or expansion of businesses in California because these changes will neither increase nor decrease recreational or commercial fishing opportunities within marine protected areas.

The Commission does not anticipate any benefits to the health and welfare of California residents, to worker safety, or the environment.

The proposed regulations will provide clarity and consistency within the regulations and will align current exemptions from the area and take regulations in the north coast region with factual records of historic and current uses submitted by federally recognized tribes to the Commission.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini  
Executive Director

Dated: September 27, 2016

Valerie Termini, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
www.fgc.ca.gov

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Jacque Hostler-Carmesin**, Vice President  
McKinleyville  
**Anthony C. Williams**, Member  
Huntington Beach  
**Russell E. Burns**, Member  
Napa  
**Peter S. Silva**, Member  
Chula Vista

### Fish and Game Commission



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### 15 Day Notice of California Notice Register 2016, No. Z2016-0705-03 Re: Upland Game Bird Special Hunt Drawing and Application

September 30, 2016

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a 15-day continuation notice of the notice of proposed regulatory action to add Section 715 and amend Section 702, Title 14, California Code of Regulations, relating to Upland Game Bird Special Hunt Drawing and Application Fee, which was published in the California Regulatory Notice Register on July 15, 2016. The proposed changes to the originally noticed language are shown in double underline/strikeout underline and are sufficiently related to the originally proposed text.

The changes reflect a reduction in the proposed application fee for the drawing has therefore been reduced from \$5.00 to \$2.25. In response to public comments received at the August 25, 2016 Discussion hearing, the Department of Fish and Wildlife (Department) reevaluated the proposed application fee for the Upland Game Bird Special Hunt Drawing and determined that staff costs for Wildlife Branch personnel are appropriately covered by Upland Game Stamp funds and should not be apportioned to the drawing fee. The number of projected drawing applications was also reduced from 10,000 to 6,200 based on the number of current drawing applications.

The date of the public hearing related to this matter, and associated deadlines for receipt of oral or written comments at the meeting to be held on October 20, 2016 in Eureka has not changed from the original notice. Additional information and all associated documents may be found on the Fish and Game Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov).

Karen Fothergill, Department of Fish and Wildlife, phone 916-716-1461, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Caren Woodson  
Associate Governmental Program Analyst  
Attachment

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**TITLE 14. Fish and Game Commission**  
**AMENDED Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 215, 220, 331, 332 and 1050 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 202, 203, 203.1, 207, 215, 219, 220, 331, 332, 713, 1050, 1055, 1055.1, 1570, 1571, 1572, 1573, 3500, 3682.1, 3683, 3950, 3951, 4302, 4330, 4331, 4332, 4333, 4336, 4340, 4341, 4652, 4653, 4654, 4655, 4657, 4750, 4751, 4752, 4753, 4754, 4755, 4902, 10500 and 10502 of said Code, proposes to amend Section 702 and add Section 715, Title 14, California Code of Regulations, relating to Upland Game Bird Special Hunt Drawing and Application Fee.

**Informative Digest/Policy Statement Overview**

A new Section 715, Upland Game Bird Special Hunt Drawing, is proposed to establish the application and drawing procedures for wild upland game bird hunt reservations in the Automated License Data System (ALDS). ALDS is the central location for the public to apply for all Department licenses and hunting opportunities. The ALDS drawing process provides more accuracy and flexibility to the public and allows applicants to easily select their first, second and third choice wild bird hunts. A fee of **\$2.25** per application for the Upland Game Bird Special Hunt Drawing is proposed to be added in Section 702.

**Benefits of the regulations**

The Commission anticipates benefits to the health and welfare of California residents. ALDS provides a single location for the public to apply for all department hunts including big game and waterfowl hunting opportunities. Data collected and compiled through ALDS will be accessible in a consistent format for the Department's use. Adding the Upland Game Bird Special Hunt Drawing to ALDS will provide the same benefits of fairness and flexibility as well as important information necessary to properly manage upland game bird populations.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The proposed regulation could reduce the time required to apply for Upland Game special hunting opportunities and will improve the accuracy of the data collection. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence.

**Non-monetary benefits to the public**

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business

and government.

### Consistency with State or Federal Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to reservation drawing selection for wild upland game bird hunting opportunities through ALDS to be consistent with the provisions of Title 14. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Lake Natoma Inn Hotel & Conference Center, 702 Gold Lake Drive, in Folsom, California, on Wednesday August 25, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Red Lion Inn, 1929 4<sup>th</sup> Street, Eureka, California, on Wednesday, October 20, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 6, 2016, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). **Written comments mailed, or emailed to the Commission office, must be received before 5:00 p.m. on October 14, 2016.** All comments must be received no later than **October 20, 2016**, at the hearing in Eureka, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Caren Woodson at the preceding address or phone number. **Karen Fothergill, Department of Fish and Wildlife, phone (916) 716-1461 or email [Karen.Fothergill@wildlife.ca.gov](mailto:Karen.Fothergill@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, the regulatory language, the Notice, and other rulemaking documents, may be obtained from either the address above or on the Commission's website at <http://www.fgc.ca.gov>.

### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action/Results of the Economic Impact Assessment**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action automates an existing hunt drawing process through the use of ALDS. This proposal is economically neutral to business.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission anticipates benefits to the health and welfare of California residents. ALDS provides a single location for the public to apply for all department hunts including big game and waterfowl hunting opportunities. Data collected and compiled through ALDS will be accessible in a consistent format for the Department's use. Adding the Upland Game Bird Special Hunt Drawing to ALDS will provide the same benefits of fairness and flexibility as well as important information necessary to properly manage upland game bird populations.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The proposed regulation could reduce the time required to apply for Upland Game special hunting opportunities and will improve the accuracy of the data collection. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence. The Commission does not anticipate any impacts on the creation or elimination



of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The Commission does not anticipate any benefits to worker safety.

(c) Cost Impacts on a Representative Private Person or Business:

The Department proposes a modest fee to recover reasonable costs of the drawing as required by statute. The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations will not affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini  
Executive Director

Dated: September 30, 2016

BOS-11  
CPAG

Valerie Termini, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
www.fgc.ca.gov

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Jacque Hostler-Carmesin**, Vice President  
McKinleyville  
**Anthony C. Williams**, Member  
Huntington Beach  
**Russell E. Burns**, Member  
Napa  
**Peter S. Silva**, Member  
Chula Vista

# Fish and Game Commission



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September 30, 2016

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action to add Section 748.6, Title 14, California Code of Regulations, relating to standards for imposing penalty enhancements for illegal take of game with defined characteristics, which will be published in the California Regulatory Notice Register on September 30, 2016.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments. Additional information and all associated documents may be found on the Fish and Game Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov).

Captain Patrick Foy, Law Enforcement Division, Department of Fish and Wildlife, phone 916-651-6692, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Caren Woodson  
Associate Governmental Program Analyst

Attachment

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**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Section 12013.3 of the Fish and Game Code and to implement, interpret or make specific Section 12013.3 of said Code, proposes to add Section 748.6, Title 14, California Code of Regulations, relating to establishing standards for imposing penalty enhancements for illegal take of game with defined characteristics.

**Informative Digest/Policy Statement Overview**

The Fish and Game Commission (Commission) proposes to implement the provisions of Fish and Game Code Section 12013.3 by adopting definitions of “trophy” deer, elk, antelope, bighorn sheep, and wild turkey for the purpose of enhanced fines and penalties for poaching animals meeting specified criteria as required below.

“(b) The Commission shall adopt regulations to implement this section, including establishing a trophy designation and monetary value based on the size or related characteristics of deer, elk, antelope, bighorn sheep, and wild turkey.”

This rulemaking process proposes to add Section 748.6 to Title 14, California Code of Regulations, to establish standards that can be used by the courts when imposing criminal fines in cases where individuals are convicted of the violations set forth in Fish and Game Code section 12013.3.

**Summary of Proposed Additions**

The Commission is proposing the following regulatory changes:

**Add Subsection (a) of Section 748.6**

For purposes of implementing the penalty enhancements set forth in Fish and Game Code section 12013.3, the following subsections will be added to Title 14 and animals meeting the criteria specified will be designated as trophies:

*Add subsection (1) In deer hunting zones A, all B zones, D10, D11, D13, D15, and D16, any deer with four or more points on either antler (excluding eye guards) or with an outside antler spread of at least sixteen inches. In all other deer hunting zones (all X zones, all C zones, and zones D3, D4, D5, D6, D7, D8, D9, D12, D14, D 17, D19), any deer with four or more points on either antler (excluding eye guards) or with an outside antler spread of at least twenty-two inches.*

For purposes of establishing a trophy standard for deer, California’s deer hunting zones are divided into two groups each with a different standard that qualifies as a trophy.

Deer zones A, all B zones, D10, D11, D13, D15, D16: Deer having four or more points on at least one side not including eye guards or an outside spread of 16 inches or greater.

For all X zones and all C zones, and zones D3, D4, D5, D6, D7, D8, D9, D12, D14, D 17, D19 (there is no D18 zone): Deer having four or more points on at least one side not including eye guards or an outside spread of 22 inches or greater.

*Add subsection (2) Any elk with five or more points on either antler (including eye guards);*

The standard for seven of the eight western states that have standards for elk was either five or six antler points on at least one side. In California, public outreach to elk hunting and wildlife management groups consistently supported a standard of at least five points on one side. A standard of five points on one side is a preferred and widely regarded as a trophy quality elk in California.

*Add subsection (3) Any pronghorn antelope with a horn that is at least fourteen inches in length;*

The standard for seven of the eight western states that have standards for antelope was a 14-inch horn on at least one side. In California, public outreach to big game hunting and wildlife management groups consistently supported a standard of at least one horn greater than or equal to 14 inches on one side. A 14-inch standard on at least one side is preferred and widely regarded as a trophy quality antelope.

*Add subsection (4) Any bighorn sheep ram as defined as follows: a male bighorn sheep (Ovis canadensis) having at least one horn, the tip of which extends beyond a point in a straight line beginning at the front (anterior) edge of the horn base, and extending downward through the rear (posterior) edge of the visible portion of the eye and continuing downward through the horn. All reference points are based on viewing the ram directly from a 90 degree angle from which the head is facing.*

The standards for bighorn sheep horn size in six of the western states surveyed were between a one-half to three-quarter curl on at least one side. Measurement standards vary with how those curl sizes are measured, however. California hunters who are drawn via lottery to hunt bighorn sheep have been held to a very high standard since sheep hunting was authorized. The standard for measurement is inflexible, is reliable for hunters on a visual basis, and is within the range of the one-half to three-quarter size curl standard used in several other states.

The Commission proposes to use the standard similar to what is stated in Section 362(c), Title 14, CCR. Relying upon strict language in 362(c), Title 14, CCR, however, would inadvertently omit Sierra Nevada bighorn sheep, a protected endangered species that is not hunted in California, so the language is modified to apply to all bighorn sheep in California.

A mature bighorn sheep ram is defined as follows: a male bighorn sheep (*Ovis canadensis*) having at least one horn, the tip of which extends beyond a point in a straight line beginning at the front (anterior) edge of the horn base, and extending downward through the rear (posterior) edge of the visible portion of the eye and continuing downward through the horn. All reference points are based on viewing the ram directly from a 90 degree angle from which the head is facing.

*Add subsection (5) Any wild turkey with either a spur that is at least one inch in length, or a beard (measured by the longest strand of one or more beards) that is eight or more inches.*

No other state uses a measurement standard for wild turkey, so the Department proposed and solicited input from several representatives of various non-governmental hunting and wildlife conservation organizations.

The two most reliable reference points for measuring wild turkey used by hunters and biologists

are the beard and spur lengths. The wild turkey beard is most prevalent on the males, is similar in look to a long tuft of hair, hence the term "beard" but in actuality is a group of modified feathers. Between 10 and 20 percent of females also have beards, but they are not usually as long, and an even lower percentage of hens have spurs.

The average lifespan of wild turkey is three years and it takes the average male bird, called a Tom, this long to develop a beard to reach a length of eight or more inches, and for the spurs to reach a length of at least one inch. Most hunters consider a bird with either of these two physical characteristics of this size a "trophy" sized animal.

#### Add Subsection (b) of Section 748.6

For purposes of measuring the attributes listed in Subsection (a) Section 748.6, to designate a game mammal or wild turkey a trophy, the following subsections will be added to Title 14:

#### *Definitions.*

- (1) A point is a projection of the antler at least one inch long and longer than the width of its base.*
- (2) The outside antler spread is measured between perpendiculars at a right angle to the center line of the skull at the widest part, whether across the main beams or points.*
- (3) An eye guard is a projection on the lower one-third of the antler.*
- (4) The length of a pronghorn antelope horn is measured with a flexible measuring tape along the center of the outer curve from the tip of the horn to a point in line with the lowest edge base, using a straight edge to establish the line end.*
- (5) The length of a wild turkey's beard is the distance from the turkey's skin to the tip of the longest strand of one or more beards, and the length of a spur is measured along the outside curve of the spur.*

The definitions section clarifies how the size characteristics are technically defined. They rely upon commonly used measurement standards in the hunting and outdoors industry, as well as insure that the regulations are clear and legally enforceable.

#### Add Subsection (c) of Section 748.6

For purposes of assessing penalties as set forth in Fish and Game Code section 12013.3(a), the following subsection will be added to Title 14 to aide in determining the appropriate fine within the range:

*In determining the monetary value of any fine imposed pursuant to Fish and Game Code section 12013.3, courts should consider the totality of the circumstances, including but not limited to, the degree to which the standards set forth in subsection (a) are exceeded, and any prior violations of the defendant.*

This subsection will implement Fish and Game Code Section 12013.3 by encouraging courts to consider the degree by which the trophy standards are exceeded in determining the amount of criminal fines.

#### **Benefits of the Proposed Regulations**

The Commission anticipates benefits to the health and welfare of California residents. Participation in hunting opportunities and the general positive support from representatives of legitimate ethical hunting organizations fosters conservation through education and appreciation

of California's wildlife.

The Commission anticipates benefits to the environment by initiating a greater deterrence to poaching crimes and increased penalties associated with poaching offenders. It is the policy of the State to encourage the conservation, maintenance, and utilization of its living resources. The proposed regulations will further this core objective.

### **Consistency and Compatibility with Existing Regulations**

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt hunting regulations (Fish and Game Code, sections 200, 202 and 205). The proposed regulations are consistent with general hunting regulations in Chapters 1 and 3 of Subdivision 2 of Division 1, Title 14, CCR. No other State agency has authority to regulate the methods and the manner by which wildlife may be taken.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hilton Garden Inn San Diego Mission Valley/Stadium, at 3805 Murphy Canyon Road, in San Diego, California, on December 8, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 22, 2016, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on December 2, 2016. All comments must be received no later than December 8, 2016, at the hearing in San Diego, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

### Availability of Documents

The rulemaking file, which includes the text of the regulations, Initial Statement of Reasons, as well as all related documents upon which the proposal is based, are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Caren Woodson at the preceding address or phone number. **Captain Patrick Foy, Law Enforcement Division, Department of Fish and Wildlife, phone 916-651-6692, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at <http://www.fgc.ca.gov>.

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

## **Impact of Regulatory Action/Results of the Economic Impact Assessment**

The potential for fiscal and economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations only imposes penalty enhancements for activity which is already illegal.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulations do not add new uses or remove existing uses.

The Commission anticipates benefits to the health and welfare of California residents. Participation in hunting opportunities and the general positive support from representatives of legitimate ethical hunting organizations fosters conservation through education and appreciation of California's wildlife.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the State's environment. It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources. The proposed action will further this core objective.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: August 30, 2016

Valerie Termini  
Executive Director



BOS-11, CPASE

**Valerie Termini, Executive Director**  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
www.fgc.ca.gov

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Commissioners**  
**Eric Sklar, President**  
Saint Helena  
**Jacque Hostler-Carmesin, Vice President**  
McKinleyville  
**Anthony C. Williams, Member**  
Huntington Beach  
**Russell Burns, Member**  
Napa  
**Peter Silva, Member**  
Chula Vista

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
Since 1870

RECEIVED  
DEPARTMENT OF FISH AND WILDLIFE  
SACRAMENTO, CA  
2016 OCT -3 PM 2:48  
AK

September 9, 2016

This is to provide you with a copy of the notice of proposed regulatory action relative to Amending Section 670, Title 14, California Code of Regulations, relating to Falconry regulations, which are published in the California Regulatory Notice Register on September 9, 2016.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/2016/index.aspx>.

**Carie Battistone, Senior Environmental Scientist, Department of Fish and Wildlife, phone (916) 445-3615, has been designated to respond to questions on the substance of the proposed regulations.**

Sincerely,

Jon D. Snellstrom  
Associate Governmental Program Analyst

Attachment

14

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections : 200, 202, 203, 355, 356, 395, 396, 398, 710.5, 710.7, 713, 1050, 1054, 1530, 1583, 1802, 3007, 3031, 3039, 3503, 3503.5, 3511, 3513, 3800, 3801.6, 3950, 4150, and 10500 of the Fish and Game Code and to implement, interpret or make specific Sections 395, 396, 713, 1050, 3007, 3031, 3503, 3503.5, 3511, 3513, and 3801.6 of said Code, proposes to amend Section 670, Title 14, California Code of Regulations, relating to Falconry Regulations

**Informative Digest/Policy Statement Overview – Inland Fisheries**

Amend Sections 670, Falconry, Title 14, California Code of Regulations (CCR).

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At that time it was understood by the Commission, falconers, and the public that the new California regulations would require updating and amendment to bring the regulations more in line with the current practice of falconry in California.

Numerous minor edits, renumbering, and clarifying changes are proposed; the more substantive changes include:

- Revising language to be more consistent with regulatory language standards (e.g., using lower-case for all headers, renumbering subsections, appropriate references for websites, replacing “regulatory year” with “license year,” reference to expired licenses, references to federal regulations).
- Allowing falconers to complete reports using the Department’s online reporting system found on the Department website at [wildlife.ca.gov](http://wildlife.ca.gov). Accordingly, no reporting to the USFWS is required and all references to the federal form 3-186A are removed.
- Clarifying what documentation is required to be carried when engaged in falconry activities.
- Amending the definitions (e.g., falconry, hacking, imping) to more accurately represent the activity.
- Improving instructions to falconers for procedures to avoid take of unauthorized wildlife and instructions to follow in the event that inadvertent take does occur, including fully protected species, and adopting “let it lay” language for non-protected species (meaning that if take occurs to let the raptor feed on the prey) and reporting requirements.
- Clarifying that a falconry license does not authorize the take of threatened or endangered species, candidate species or fully protected species.
- Clarifying licensee application procedures for resident, nonresident, tribal, and non-US citizen falconers.
- Adding language specifying that a tribal member with a valid falconry license issued from that member’s tribe will be treated in the same manner as a nonresident licensed falconer.
- Clarifying that a tribal member that does not have a license must apply for a California license to practice falconry outside the jurisdiction of the tribe.
- Clarifying that the exam fee is charged for each multiple examination to recover the Department’s reasonable costs.
- Adding an exam exemption for new resident falconers with a valid out-of-state falconry license.
- Clarifying when inspections are needed.
- Clarifying what is allowed and not allowed under an expired license, and what steps must be taken if a licensee wishes to continue to practice falconry.
- Adding terms for renewal, at the Department’s discretion, of a license where the licensee has been unlawfully in active practice without annual renewal and the payment of fees.

- Revising suspension and revocation clause to be more specific to the types of violations that would result in immediate action.
- Regarding written authorization required for certain activities, adding specifications that the authorization must be signed and dated with original signature.
- Identifying License and Revenue Branch as the point of contact for certain determinations, with the actual determination being made by Wildlife Branch in some instances.
- Clarifying the necessity of maintaining a continuous sponsorship of an apprentice; what period of time will be counted toward a total of 2 years sponsorship; and sponsor responsibility to assure that minimum qualifications have been met.
- Clarifying that falconers must maintain proper documentation of legal acquisition of birds and records retention is for 5 years only.
- Clarifying that take of northern goshawk outside of the Tahoe Basin does not have a limit.
- Adding language that identifies no need for a new inspection if the facilities shared by multiple falconers have passed a previous inspection.
- Clarifying when the administrative fee applies.
- Revising specifications for applying for the raptor capture drawing and obtaining a permit, including revision of deadline dates and times.
- Allowing falconers to remove bands or reband raptors under certain circumstances, if needed.
- Adding specific language allowing family members to watch raptors outside, but only if a specific age.
- Deleting the existing provision in 670 that raptors may be permanently transferred to a falconer from rehabilitation facilities. Section 679 provides for the permanent disposition from rehabilitation facilities of wildlife including birds.
- Clarifying that falconers may temporarily possess raptors from rehabilitation facilities for the purpose of conditioning for release back in to the wild.
- Adding text to clarify that non-native raptors or barred owls may not be released into the wild.
- Revising text regarding process and limitations for mounting raptor carcasses.
- Clarifying that unannounced inspections are applicable to falconry facilities.
- Revising language so that the Department will make a reasonable attempt to contact the licensee prior to conducting inspections.

### **Benefits of the Proposed Regulations**

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of resource related recreational activities that serve in harmony with federal law respecting conservation of the living resources under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the management and maintenance of captive raptor populations to ensure their continued existence of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based regulations provides for the health and maintenance of sufficient populations raptors. The Commission additionally anticipates benefits to the captive breeding program as well as the management of the rehabilitation of raptors as needed. The proposed regulation changes are intended to provide increased health and maintenance to the State's falconry program from its recent transition for federal to states oversight. The Commission anticipates benefits to the environment by the sustainable management of California's resources.

The Commission further anticipates benefits to licensed falconers in the current practice of the sport in California through clarified regulations.

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature

sees fit. The Legislature has delegated to the Commission the power to regulate the practice of falconry. No other State agency has the authority to promulgate such regulations. The Commission has searched the CCR for any regulations regarding falconry and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Red Lion Inn, 1929 4<sup>th</sup> Street, Eureka, California, on Thursday, October 20, 2016 at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton Garden Inn San Diego Mission Valley/Stadium, 3805 Murphy Canyon Road, San Diego, California, on December 8, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on November 17, 2016 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on December 2, 2016. All comments must be received no later than December 8, 2016, at the hearing in San Diego, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

#### **Availability of Documents**

The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Jon Snellstrom at the preceding address or phone number. **Carie Battistone, Senior Environmental Scientist, Department of Fish and Wildlife, phone (916) 445-3615**, has been designated to respond to questions on the substance of the proposed Falconry regulations. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at <http://www.fgc.ca.gov>.

#### **Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### **Impact of Regulatory Action/Results of the Economic Impact Assessment**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission does not anticipate significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations amend the existing rules for the sport of falconry, primarily for recreational purposes.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses. Hunting and falconry is an outdoor activity that can provide several benefits for individuals who partake in it and for the environment benefitting the health and welfare of California residents. The proposed regulations affect a limited number of falconers in California and therefore are unlikely to create or eliminate jobs, or result in the expansion or elimination of existing businesses.

- (c) Cost Impacts on a Representative Private Person or Business:

The proposed amendments do not impose any additional fees or costs to private persons involved in the sport of falconry.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None  
(e) Nondiscretionary Costs/Savings to Local Agencies: None  
(f) Programs Mandated on Local Agencies or School Districts: None  
(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None  
(h) Effect on Housing Costs: None

#### **Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

#### **Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini  
Executive Director

Dated: August 30, 2016

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**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: CPUC Notification - Verizon Wireless - Verizon Facilities  
**Attachments:** CPUC Notification - Verizon - SF UM Bulk 9-29-2016 - Revised.pdf

**From:** West Area CPUC [mailto:WestAreaCPUC@VerizonWireless.com]

**Sent:** Tuesday, October 04, 2016 3:18 PM

**To:** Woods, Ashley (CPC) <ashley.woods@sfgov.org>; Administrator, City (ADM) <city.administrator@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>

**Cc:** West Area CPUC <WestAreaCPUC@VerizonWireless.com>

**Subject:** CPUC Notification - Verizon Wireless - Verizon Facilities

This is to provide your agency with notice according to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC"). This notice is being provided pursuant to Section IV.C.2.

If you prefer to receive these notices by US Mail, please reply to this email stating your jurisdiction's preference.

Thank You

15



October 4, 2016

**Ms. Anna Hom**  
**Utilities Enforcement Branch**  
**Consumer Protection and Enforcement Division**  
**California Public Utilities Commission**  
505 Van Ness Avenue  
San Francisco, CA 94102  
[alh@cpuc.ca.gov](mailto:alh@cpuc.ca.gov)

RE: Notification Letter for Verizon Facilities  
San Francisco-Oakland, CA / GTE Mobilnet of California Limited Partnership / U-3002-C

---

This is to provide the Commission with notice according to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC") for the project described in Attachment A.

A copy of this notification letter is also being provided to the appropriate local government agency for its information. Should there be any questions regarding this project, or if you disagree with any of the information contained herein, please contact the representative below.

Sincerely,

Ruth Concepcion  
Engr II Spec-RE/Regulatory  
15505 Sand Canyon Avenue, Irvine, CA 92618  
[WestAreaCPUC@VerizonWireless.com](mailto:WestAreaCPUC@VerizonWireless.com)

CPUC Attachment A

Initial Build (new presence for Verizon Wireless)



VZW LEGAL ENTITY	JURISDICTION	PLANNING DIRECTOR	CITY ADMINISTRATOR	CLERK OF THE BOARD	COUNTY
GTE Mobinet of California Limited Partnership	City of San Francisco 1 Dr. Carlton B. Goodlett Pl	<a href="mailto:Ashley.Woods@sfgov.org">Ashley.Woods@sfgov.org</a>	<a href="mailto:city_administrator@sfgov.org">city_administrator@sfgov.org</a>	<a href="mailto:Board.of.Supervisors@sfgov.org">Board.of.Supervisors@sfgov.org</a>	San Francisco

Site Name	Site Address	Site APN	Site Coordinates (NAD 83)	Project Description	Number & type of Antennas	Tower Design	Tower Appearance	Tower Height (in feet)	Size of Building or NA	Type of Approval	Approval Issue Date	Approval Effective Date	Approval Permit Number	Resolution Number
SF UM PH4 SC 166	962 Pacific, San Francisco CA 94133	N/A - public right-of-way	37°47'47.1228"N 122°24'40.2048"W	Installation of one 7.5" diameter x 24" tall canister antenna, two 16.5" x 9.8" x 5.7" MRRU's on to existing (28' 9" AGL) SFPUC steel streetlight pole.	1 panel antenna	existing SFPUC steel pole	Panel antenna @ 30' 6" RAD	31' 6" AGL	N/A	Personal Wireless Service Facility Permit	8/29/2016	9/30/2016	15WR-0587	N/A
SF UM PH4 SC 228	1429 Sacramento, San Francisco CA 94109	N/A - public right-of-way	37°47'31.2396"N 122°24'59.8212"W	Installation of one 7.5" diameter x 24" tall canister antenna, two 16.5" x 9.8" x 5.7" MRRU's on to existing (29' 2" AGL) SFMTA steel streetlight pole.	1 panel antenna	existing MTA steel pole	Panel antenna @ 31' 1" RAD	32' 1" AGL	N/A	Personal Wireless Service Facility Permit	9/28/2016	10/29/2016	15WR-0607	N/A



BOS-11, Cpagl



STATE OF CALIFORNIA

BOARD OF STATE AND COMMUNITY CORRECTIONS

2590 VENTURE OAKS WAY, SUITE 200 - SACRAMENTO CA 95833 - 916.446.5073 - BSCC.CA.GOV



LINDA M. PENNER  
Chair

KATHLEEN T. HOWARD  
Executive Director

EDMUND G. BROWN, JR.  
Governor

September 23, 2016

Toney Chaplin, Interim Chief of Police  
City and County of San Francisco  
850 Bryant Street, Room # 525  
San Francisco, CA 94103

Dear Chief Chaplin:

RECEIVED  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
SAN FRANCISCO  
2016 OCT -3 PM 2:46  
AK

**2014 – 2016 BIENNIAL INSPECTION 6031 PC**

On March 7 through March 9, 2016, the Board of State and Community Corrections (BSCC) conducted the 2012-2014 biennial inspections of the following San Francisco Police Department temporary holding facilities:

- |                         |                          |                         |
|-------------------------|--------------------------|-------------------------|
| Northern Police Station | Ingleside Police Station | Richmond Police Station |
| Bayview Police Station  | Taraval Police Station   | Mission Police Station  |
| Park Police Station     | Tenderloin Station       | South Terminal S.F.O.   |

These facilities were inspected for compliance with the Minimum Standards for Local Detention Facilities as outlined in Titles 15 and 24, California Code of Regulations (CCR). A member of the BSCC Minors in Detention Compliance team will schedule an inspection pursuant to Welfare and Institutions Code (WIC) Section 209(f) and the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) for the secure detention of minors to determine compliance with statutory requirements.

The inspection consisted of a walk-through of the physical plant, a review of applicable written policies and procedures governing the operation of the facility, and a review of documentation to verify that your practices follow your written procedures.

Officer Ivan Sequeira joined us during the physical inspections. We interviewed facility coordinators, station keepers, and officers in each station. Officer Sequeira provided documentation to verify compliance with specific Title 15 regulations and answering questions, clarifying procedural issues. He is very knowledgeable in the overall operations of the facilities and it was a real pleasure to work such a professional.

Enclosed with this transmittal letter are the following documents: the procedures checklist outlining applicable Title 15 regulations for your temporary holding facilities (this is a consolidated checklist showing all nine facilities on one form); a physical plant evaluation outlining Title 24 requirements for design; and, the living area space evaluation that summarizes the physical plant configuration for each facility

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**Local Inspections:**

In addition to a biennial inspection by the BSCC, inspections are also required by the County Health Officer and the State Fire Marshal or local fire inspector (Health and Safety Code Sections 101045 and 13146.1). Please consider our report in conjunction with the reports from the Health Department and the fire inspector for a comprehensive perspective of your facilities.

**Fire Inspection:**

Health and Safety Code Section 13146.1 requires a bi-annual inspection for fire and life safety issues. The City & County of San Francisco County Fire Inspection dates are incorporated in the following chart.

**Health Inspections:**

The local health authority is required to conduct annual inspections of all local detention facilities and includes evaluation of medical/mental health and the environmental health standards. The nutritional requirements is not applicable for temporary holding facilities. The following is the date of the most recent inspections on file with our office is listed below.

	<b>Fire &amp; Life Safety</b>	<b>Health - Environmental</b>	<b>Health - Medical / Mental Health</b>
<b>Northern</b>	06/09/2014	06/25/2015	06/25/2015
<b>Ingleside</b>	06/05/2014	06/25/2015	06/25/2015
<b>Richmond</b>	06/04/2014	06/25/2015	06/25/2015
<b>Bayview</b>	06/11/2014	06/25/2015	06/25/2015
<b>Taraval</b>	06/04/2014	06/25/2015	06/25/2015
<b>Mission</b>	06/11/2014	06/25/2015	06/25/2015
<b>Park</b>	06/04/2014	06/25/2015	06/25/2015
<b>Tenderloin</b>	06/09/2014	06/25/2015	06/25/2015

No issues of non-compliance were noted.

We encourage the practice of maintaining a permanent file for historical copies of BSCC inspection files along with the local inspections outlined above. Additionally, you should maintain documentation of how and when areas of non-compliance/concerns are resolved.

**BSCC Inspection:**

**Physical Plant:**

The station jails were evaluated as Temporary Holding Facilities under applicable physical plant standards that were in effect at the time of each facility's original construction, or when various areas were remodeled or added to the facility. Each facility was extremely clean and well maintained. The department has a defined cleaning schedule for all facilities which appears to be working to preserve and lengthen the life of these facilities. All of the Title 24 non-compliance issues mentioned in previous inspections have been resolved over the years. This has taken a concerted effort on the part of the Department that should be commended.

Toney Chaplin, Interim Chief of Police  
San Francisco Police Department  
Page 3

During this inspection, BSCC staff reviewed applicable policy, procedures, practices and supporting documentation where necessary. Please refer to the enclosed checklist for more operational details. This report does not address the San Francisco Police Airport Bureau or the newly opened South jail.

**Airport Bureau:**

At the time of our inspection we were advised that the cells located at this facility are no longer used. We reviewed facility logs, inspections and interviewed staff. We confirmed that prisoners are brought to the booking desk to complete arrest paperwork and are immediately transported to the San Mateo County Jail for processing. This facility is no longer considered a detention facility within the meaning of Title 15 & 24 and is removed from our checklists.

**South Facility:**

This facility was opened during this inspection cycle and will undergo an inspection in the 2016-2018 cycle.

**Areas of Non-compliance:** The California Code of Regulations (CCR) 1029 Policy and Procedures Manual. This regulation requires, in part, that the facility manual be comprehensively reviewed and updated at least every two years. The current manual is dated 2010. The Agency periodically update post orders and policies, but there is not a current operations manual.

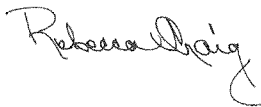
**Corrective Action Plan:**

Please provide your plan to develop a facility operations manual.

---

This concludes the inspection report. We would like to once again thank Officer Ivan Sequeira, the station keepers and facilities coordinators for the hospitality and courtesy extended during the inspection. They were extremely helpful during this process. If I could be of further assistance to you or your agency please do not hesitate to call me at (916) 324-9861 or email me at [Rebecca.Craig@bscc.ca.gov](mailto:Rebecca.Craig@bscc.ca.gov).

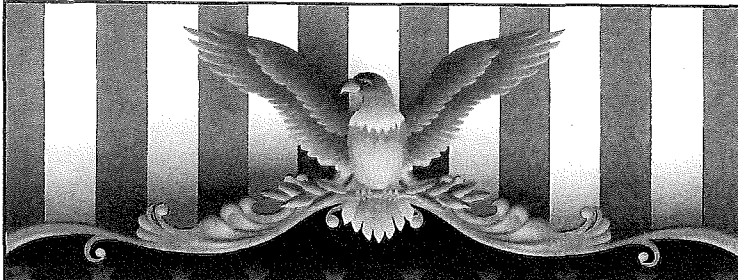
Sincerely,



REBECCA A. CRAIG  
Field Representative  
Facilities, Standards and Operations Division

Enclosure

cc: Mayor, City and County of San Francisco \*  
Chair, Board of Supervisors, City and County of San Francisco \*  
Presiding Judge, Superior Court, City and County of San Francisco \*  
Grand Jury Foreman, Superior Court, City and County of San Francisco \*



Mr. Raymond H Worley  
salutes veterans of California  
and across America!

*Board of Supervisors*

*We have lived  
in San Mateo CO  
since 1957 - Definitely  
paying our costs  
for management of  
the watershed*

*We desperately  
need open availability  
with responsibility.  
Ray & Betty Worley  
7901 Laurelwood  
San Mateo CA*



WE MUST NEVER FORGET!  
94403

[www.amvetsnsf.org](http://www.amvetsnsf.org)

(17)

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2016 OCT -3 PM 2:47

BY AK

# Open Crystal Springs watershed to the public

By Gary Kremen

John Muir, the founder of the Sierra Club, opined: "In every walk with nature one receives far more than he seeks." Many Peninsula residents cherish his words and desire to be with nature after work or on the weekends, but time after time we find crowded trails with no parking nor public transportation access.

Just off I-280 is the beautiful and forbidden Crystal Springs. Managed by the San Francisco Public Utilities Commission (SFPUC), with two-thirds of the costs paid by the ratepayers of San Mateo and Santa Clara County, has extremely restricted public access.

This is not for environmental or water quality reasons, as the 23,000+ acres are full of existing roads that are used daily by SFPUC employees and private entities. The centerpiece is an

artificial reservoir with water imported from hundreds of miles away. The land, far from being pristine, was logged, farmed and ranched as early as the 1860s.

The access system to this public land is through an inadequate docent program that effectively restricts entry from those who work during the day, those with families with complex schedules as well as those using public transportation. Withholding of admission to the existing road network is unprecedented and an issue of social justice. It is especially unjustified today, when nearly every open space parking lot in the urban Bay Area is full on weekends.

It is no coincidence that limited access to open space disproportionately hits those who don't live in affluent communities adjacent to open space, and those who do not have the time to drive

a high carbon footprint hour to find accessible open space.

Folks with money can also take the time to drive that hour to open space in Marin, Coyote Valley or along the southernmost areas of the San Mateo coast. Crystal Springs presents an amazing opportunity to "walk with nature" and help end the obesity epidemic. Members of organizations such as Bay Area Ridge Trail Council, SF Peninsula Open Space Coalition, Save Our Recreation, Open the San Francisco Watershed and various biking groups recently testified their support for responsible public access including fully funding rangers for patrols.

Adding access using existing roads would connect State-County-National Park islands of publicly managed lands. To continue the elitist docent led access program only perpetu-

ates the current shameful exclusionary policy that serves a tiny fraction of the public. Instead there should be unrestricted daylight admittance or in worse case, an online registration system with a cell phone activated lock system.

Opponents of access discuss water quality, endangered species and trash. In practice, these have been shown to be non-issues. Other agencies such as the Santa Clara Valley Water District, where I am a board member, and the East Bay Municipal Utility District concluded that responsible public access does not endanger water quality. Environmental concerns have already been addressed in the studies of the entire Crystal Springs property.

The Land Use Committee of the San Francisco Board of Supervisors on Sept. 12 took a

baby step toward ending the exclusionary regime. Through the leadership of Supervisors Scott Wiener and John Avalos the committee voted to forward resolution to increase responsible access to our lands. This pro-social justice, pro-public health resolution, while non-binding and watered down by opponent voices, will be voted on by the Board of Supervisors in the next few weeks.

I urge you to contact the supervisors to not only accept the resolution but broaden it to fully fund daylight access to the existing Crystal Springs road network.

*Gary Kremen is a board member of Santa Clara Valley Water District and a founding member of the Open the SF Watershed movement. He wrote this for The Mercury News.*

---

**From:** Gary Kremen <gkremen@aol.com>  
**Sent:** Tuesday, September 27, 2016 12:16 PM  
**To:** Peskin, Aaron (BOS); BreedStaff, (BOS); Campos, David (BOS); Mar, Eric (BOS); Kim, Jane (BOS); Avalos, John (BOS); Tang, Katy (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Yee, Norman (BOS); Wiener, Scott  
**Cc:** Somera, Alisa (BOS); Lee, Mayor (MYR); commissioners@sfwater.org; Board of Supervisors, (BOS)  
**Subject:** SFBOS File #160183 - SUPPORT of Resolution to Increase Access to the SFPUC's Peninsula Watershed Lands  
**Attachments:** Kremen Open Crystal Springs watershed to the public.pdf; sup v3.pdf

Dear Supervisors

Attached and copied below is my letter in support of the resolution that you will be considering today to increase access to the SFPUC's Peninsula Lands

Additionally attached is a copy of a published Op-Ed I wrote on the subject that appeared in the San José Mercury News last week.

Regards,

Gary Kremen

Board Member, Santa Clara Valley Water District (for identification only)  
Proposition 39 Citizen Oversight Committee (for identification only)  
Board Member, UC Merced (for identification only)

City and County of San Francisco  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

September 27, 2016

Re: SFBOS file # 160183

Dear Supervisors:

My name is Gary Kremen and I am the elected board member of the Santa Clara Valley Water District ("SCVWD") for District 7. District 7 is comprised of the approximately 290,000 residents of

Palo Alto, Mountain View, Los Altos, Stanford University, Los Altos Hills, Los Gatos, Monte Sereno, as well as parts of both San José and unincorporated Santa Clara County. District 7 is the closest SCVWD district to the San Francisco Public Utility Commission ("SFPUC") watershed lands in San Mateo County, which are the subject of the resolution.

The SCVWD is the analog of the San Francisco PUC's wholesale water supply operations for the 1.9 million people in Santa Clara County. Not only does the SCVWD supply water like the SFPUC, but the SCVWD is responsible for flood control and watershed environmental stewardship in Santa Clara County.

For additional background information on for the reasons why I support the resolution, I am environmental entrepreneur who is deeply involved in the San Francisco clean technology ecosystem. I have personally invested millions of dollars in San Francisco based clean technologies companies, for example founding Spruce Financial (solar and energy efficiency lending), located at 201 Mission, employing over 250 people as well as seed funding WaterSmart Software (water conservation), located at 20 California Street employing over 50 people.

I support quickly and broadly opening the Watershed to all forms of responsible public access. This type of enhanced watershed access has worked well in Santa Clara County and there is no reason for it not to work well in the SFPUC watershed lands in San Mateo County.

This comes back to social justice and fairness. Those with disposable personal income have easier additional access to resources such as open space or even water. I have written and been quoted on the issues of social justice in these areas in thought pieces such as <http://thelefthook.com/2015/04/09/the-california-drought-selected-social-justice-issues/>.

While I am a life member of the Sierra Club as well as other environmental organizations, sometimes well-meaning environmental get their policies wrong with elitist results. This is such a case. I was recently quoted in the San José Mercury News discussing this in a related context <http://www.mercurynews.com/2016/07/20/east-palo-alto-imposes-development-moratorium-due-to-lack-of-water/>.

I urge you vote not only approve the resolution being discussed today but another resolution directing SFPUC staff thru the budget or other processes, to open the watershed to responsible, full access in the name public access and social justice.

Thank you for your public service.

Gary Kremen

Attachment: Ed Op in the San Jose Mercury News in Support



Opinion &gt; Commentary

2

## Kremen: Open Crystal Springs watershed to the public



The Crystal Springs dam creates a picturesque reservoir people should be able to walk around. (John Green/San Mateo County Times)

By GARY KREMEN

PUBLISHED: September 21, 2016 at 5:21 pm | UPDATED: September 21, 2016 at 5:25 pm

John Muir, the founder of the Sierra Club, opined: "In every walk with nature one receives far more than he seeks." Many Peninsula residents cherish his words and desire to be with nature after work or on the weekends, but time after time we find crowded trails with no parking nor public transportation access.

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*Gary Kremen is a board member of Santa Clara Valley Water District and a founding member of the Open the SF Watershed movement. He wrote this for The Mercury News.*



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Tags: Commentary



Gary Kremen

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City and County of San Francisco  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

September 27, 2016

Re: SFBOS file # 160183

Dear Supervisors:

My name is Gary Kremen and I am the elected board member of the Santa Clara Valley Water District ("SCVWD") for District 7. District 7 is comprised of the approximately 290,000 residents of Palo Alto, Mountain View, Los Altos, Stanford University, Los Altos Hills, Los Gatos, Monte Sereno, as well as parts of both San José and unincorporated Santa Clara County. District 7 is the closest SCVWD district to the San Francisco Public Utility Commission ("SFPUC") watershed lands in San Mateo County, which are the subject of the resolution.

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I urge you vote not only approve the resolution being discussed today but another resolution directing SFPUC staff thru the budget or other processes, to open the watershed to responsible, full access in the name public access and social justice.

Thank you for your public service.

Gary Kremen

Attachment: Ed Op in the San Jose Mercury News in Support



MILLENNIUM PARTNERS  
 735 Market Street | Suite 302  
 San Francisco, California | 94103  
 Tel 415.593.1100 | Fax 415.989.3339

160756  
 BOS-11 GAO  
 Opagc

October 4, 2016

Supervisor Jane Kim  
 Supervisor Aaron Peskin  
 Supervisor London Breed  
 Supervisor Norman Yee  
 Clerk Erica Major  
 The Government Audit and Oversight Committee  
 City Hall, Room 250  
 1 Dr. Carlton B. Goodlett Place  
 San Francisco, CA 94102-4689

RECEIVED  
 SEAN P. JEFFRIES  
 SAN FRANCISCO  
 2016 OCT -4 PM 4:37  
 SY

Re: Support for the Resolution to create The Yerba Buena Gardens Conservancy

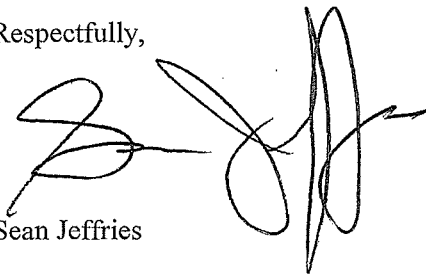
Dear Supervisors,

Millennium Partners is in strong support of the Resolution being brought before you to create the Yerba Buena Gardens Conservancy. Millennium Partners has been a stakeholder in the Yerba Buena Gardens for over two decades. With the transition of the Gardens from OCII to the City, Millennium Partners has participated in the community input process and believes that the Conservancy is in the best interest for the future of Yerba Buena Gardens. This input process has been years in the making and has taken in the perspective from all the many stakeholders and users for the Gardens.

The Yerba Buena Gardens Conservancy ensures a community-based model that supports Yerba Buena and creates a strong partnership between the City of San Francisco and the Yerba Buena community.

Millennium Partners urges you to support the Resolution to create the Yerba Buena Conservancy.

Respectfully,

  
 Sean Jeffries

18

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**From:** Danielle J.P. Flores <dflores@aclunc.org>  
**Sent:** Monday, October 03, 2016 5:58 PM  
**To:** Avalos, John (BOS); Campos, David (BOS); Cohen, Malia (BOS); Kim, Jane (BOS); Tang, Katy (BOS); Yee, Norman (BOS); Breed, London (BOS); Peskin, Aaron (BOS); Farrell, Mark (BOS); Mar, Eric (BOS); Wiener, Scott; Board of Supervisors, (BOS)  
**Cc:** Alan Schlosser; Lee, Mayor (MYR); Chaplin, Toney (POL); SFPD, Commission (POL)  
**Subject:** Blue Ribbon Panel Report and October 4, 2016 Board Hearing (Agenda Item 160806)  
**Attachments:** Letter from Alan Schlosser to Board of Supervisors re Blue Ribbon Panel ....pdf

Dear Members of the Board of Supervisors:

I am attaching a letter from Alan L. Schlosser, Senior Counsel of the American Civil Liberties Union of Northern California, with respect to the upcoming hearing about the Final Report of the Blue Ribbon Panel on October 4, 2016.

Best,  
**Danielle J.P. Flores**  
*Litigation File Clerk*  
ACLU of Northern California  
39 Drumm St., San Francisco, CA 94111  
(415) 621-2493 ext. 380 | [dflores@aclunc.org](mailto:dflores@aclunc.org)

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October 3, 2016

**Via Email**

Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco, CA 94102-4689  
[Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org)

Re: Blue Ribbon Panel Report  
October 4, 2016 Board Hearing (Agenda Item 160806)

Dear Members of the Board of Supervisors:

I am writing to you on behalf of the American Civil Liberties Union of Northern California (“ACLU”) with respect to the hearing of the Board concerning the Final Report of the Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement (“Blue Ribbon Panel Report”), scheduled for Tuesday, October 4, 2016.

Over the past ten months, San Francisco – both the government and the community – has been engaged in a significant and much-needed examination of the San Francisco Police Department - its policies, its practices, its governance and its relationship with the communities that it serves and impacts. This process was launched in large part because of the tragic officer-involved shootings of Mario Woods, Luis Gongora and Jessica Williams, and the widespread community outrage that resulted from their deaths. And, because similar tragedies have occurred in other communities around the country, this call for police reform has become national in scope.

As a result of these developments, it has been widely recognized that San Francisco is in the midst of an unparalleled opportunity with respect to significant police reform. This call for reform does not just come from the communities, but from the Mayor, the President of the Police Commission, the Acting Chief of Police and this Board.

To date, the most comprehensive and insightful analysis of the problems that need to be addressed has been the Blue Ribbon Panel Report. It provides a historical perspective, a detailed discussion and findings about the most significant problem areas, and a number of specific recommendations to address these problems. Therefore, the ACLU commends the Board for holding this hearing to bring much-needed attention to this important document.



The Report was issued in July 2016. It is disturbing that there has been so little substantive response to this Report from the official bodies that share SFPD governance. Aside from this hearing, we are aware of no efforts being made by SFPD, the Police Commission or the Mayor to respond to the detailed findings of the Report or plans to consider its many recommendations. We are aware that SFPD has been engaged in efforts to improve its system of data collection and that the Police Commission has been very involved in substantially revising SFPD's Use of Force policy. However, some of the most important areas of concern – such as the Early Intervention System, and racial disparities in police stops, searches and arrests – are long-standing problems that do not appear to be current priorities of the Police Commission or SFPD. In addition to making specific recommendations in those critical areas, the Blue Ribbon Panel Report has placed great emphasis on the need for regular audits of the operations and practices of SFPD, and the need for an independent Office of Inspector General to carry out that function. The Report's explanation of why such an office is needed to supplement the oversight work of the Commission, the OCC and this Board are cogent and certainly worthy of careful consideration by official decision-makers.

The fact that San Francisco has a Police Commission that is independent of the Department and that is primarily responsible for its governance was a significant reform measure when it was adopted, and continues to be emulated by reform-minded cities around the country. However, one result of our system is that there are a number of decision makers who must coordinate and work together in effecting significant changes in SFPD – the Mayor, the Police Commission, the Department and this Board. It is the view of the ACLU that the findings and recommendations of the Blue Ribbon Panel Report must be a central element to any broad reform effort to make lasting changes in the policies and practices of the SFPD. Therefore, it was gratifying to see that you have specifically asked the Police Department and the Police Commission to report and participate in tomorrow's hearing about the Blue Ribbon Panel Report. It would be a significant development if those agencies came prepared to talk about some of the specific findings and recommendations in this Report, and about their plans to take steps in the future to implement some of these important recommendations.

Over these past 10 months, this Board has been in the forefront of calls for significant police reform in San Francisco. By calling for this hearing, and shining some light on the Blue Ribbon Panel Report, you are once again taking a leadership role. The leadership by this Board, and its power to legislate in some of the areas covered by the Report, will be much-needed in the coming months to see if this opportunity for historic change can become a reality.

Respectfully submitted,

/s/ Alan L. Schlosser

Alan L. Schlosser

Senior Counsel

ACLU of Northern California

Cc:

Mayor Edwin Lee

Members of the Police Commission

Acting Chief Toney Chaplin

---

**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors; BOS Legislation, (BOS)  
**Subject:** File 160806 FW: Blue Ribbon Panel on Transparency, Fairness and Accountability in Law Enforcement  
**Attachments:** letter to A Subramanian.pdf

**From:** Kilshaw, Rachael (POL)  
**Sent:** Monday, October 03, 2016 5:52 PM  
**To:** Anand Subramanian <anand@policylink.org>  
**Cc:** Lee, Mayor (MYR) <mayoredwinlee@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Chaplin, Toney (POL) <toney.chaplin@sfgov.org>; Kawa, Steve (MYR) <steve.kawa@sfgov.org>; Henderson, Paul (MYR) <paul.henderson@sfgov.org>; Oliva-Aroche, Diana (MYR) <diana.oliva-aroche@sfgov.org>; Carr, Rowena (POL) <Rowena.Carr@sfgov.org>; Fountain, Christine (POL) <Christine.Fountain@sfgov.org>; Suzy Loftus <suzyloftus@hotmail.com>; SFPD, Commission (POL) <SFPD.Commission@sfgov.org>; Rania Adwan <raniaadwan@gmail.com>  
**Subject:** Blue Ribbon Panel on Transparency, Fairness and Accountability in Law Enforcement

Mr. Subramanian:

On behalf of Commission President Suzy Loftus, please see the attached letter regarding the Blue Ribbon Panel on Transparency, Fairness and Accountability in Law Enforcement.

Regards,

Sergeant Rachael Kilshaw  
San Francisco Police Department  
Police Commission Office  
1245 – 3<sup>rd</sup> Street, 6<sup>th</sup> Floor  
San Francisco, California 94158  
415.837.7071 phone  
[rachael.kilshaw@sfgov.org](mailto:rachael.kilshaw@sfgov.org)



# The Police Commission

---

## CITY AND COUNTY OF SAN FRANCISCO

October 3, 2016

Mr. Anand Subramanian  
Executive Director  
Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement  
Transmitted via email: [anand@policylink.org](mailto:anand@policylink.org)

Dear Mr. Subramanian:

Thank you for including me in the distribution of your September 26, 2016 letter to Mayor Lee regarding the Blue Ribbon Panel on Transparency, Fairness and Accountability in Law Enforcement. I appreciated the opportunity to sit down with you, the team of lawyers who worked on the report, Interim Chief Chaplin and members of the Mayor's staff to discuss next steps. As we discussed at our meeting, the Police Commission invited a representative from the Blue Ribbon Panel to work on our Use of Force Stakeholder Group in the spring and have continued to work closely with members of that sub-committee on advancing the Use of Force policy approved by the Police Commission on June 22, 2016. This was an incredibly collaborative and successful joint effort. We are grateful for the time and attention provided by the lawyers who have graciously volunteered their time. We continue to welcome the engagement of that team on finalizing that policy and ensuring its full adoption.

With regard to the remaining areas of focus and recommendations, representatives of the Blue Ribbon Panel shared copies of the entire report with members of the Police Commission. As promised, the Commission advanced the Blue Ribbon report, along with the two Civil Grand Jury Reports that were issued recently, to the Department of Justice Collaborative Reform team. The Department has reported to the Police Commission that SFPD is currently building a consolidated matrix of recommendations that will include the following reports:

- President's Task Force on 21<sup>st</sup> Century Policing
- Civil Grand Jury
- Blue Ribbon Panel
- DOJ/COPS Report
- OCC Recommendation Report

The implementation schedule and strategic plan is in progress and will be presented to the Police Commission following issuance of the DOJ/COPS report.

As we discussed at our meeting, we are very fortunate to have the assistance of the United States Department of Justice at this critical juncture for reform of the San Francisco Police Department. They will be issuing a comprehensive report with their findings and recommendations regarding the following objectives:

1. Assessing the SFPD's use of force policies and practices as they relate to training, implementation, reporting, supervision, and oversight and accountability to ensure adherence to policy and fair and impartial use of force decisions;
2. Assessing the SFPD's policies and operational practices to determine if there is biased policing with a specific focus on people of color, people with mental illness, the LGBTQ community and the homeless;
3. Assessing the community policing, procedural justice, and community engagement protocols and practices across the SFPD in light of national and best practices;

SUZY LOFTUS  
President

L. JULIUS TURMAN  
Vice President

DR. JOE MARSHALL  
Commissioner

THOMAS MAZZUCCO  
Commissioner

PETRA DeJESUS  
Commissioner

VICTOR HWANG  
Commissioner

SONIA MELARA  
Commissioner

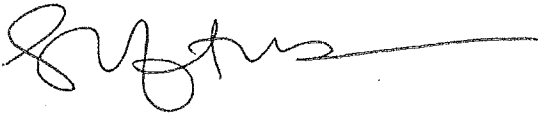
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Sergeant Rachael Kilshaw  
Secretary

4. Assessing whether the accountability, oversight policies, and practices related to community complaints and their investigation comport with national standards and best practices;
5. Analyzing recruitment, hiring and personnel practices to evaluate diversity efforts in the SFPD to determine adherence with national standards and best practices.

In the meantime, reform does not wait for the final DOJ report to issue – to the contrary, I invite you to follow our progress in a number of key areas through the Police Commission at <http://sanfranciscopolice.org/police-commission>. For example, I would highlight the implementation of Body Camera technology and the addition of a Policy Analyst to the Police Commission staff to advance our growing policy efforts. As these critical reform efforts progress, we will update the Blue Ribbon Panel on Transparency, Fairness and Accountability in Law Enforcement and continue to include you in ongoing stakeholder engagement.

Best,



Suzy Loftus  
President, San Francisco Police Commission

cc:

Mayor Edwin M. Lee  
Members of the Board of Supervisors  
Police Commissioners  
Interim Chief of Police Toney Chaplin  
Chief of Staff Steve Kawa  
Deputy Chief of Staff Paul Henderson  
Senior Advisor Diana Oliva-Aroche

---

**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors; Somera, Alisa (BOS)  
**Subject:** FW: Entertainment Commission Endorsement RE: File #160962  
**Attachments:** EC Endorsement for File #160962.pdf

**From:** Weiland, Maggie (ADM)  
**Sent:** Wednesday, October 05, 2016 5:04 PM  
**To:** Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Cc:** Kane, Jocelyn (ADM) <jocelyn.kane@sfgov.org>  
**Subject:** Entertainment Commission Endorsement RE: File #160962

Hello Ms. Calvillo or to whom it may concern,

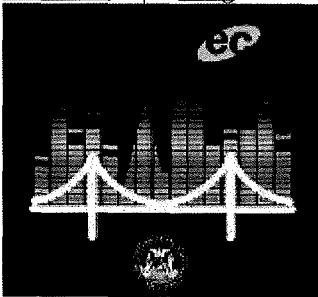
Attached is a letter from Executive Director of the Entertainment Commission, Jocelyn Kane, on behalf of our Commission endorsing the proposed ordinance in File #160962 amending Police Code Section 1060.38.1 to allow the Director of the Entertainment Commission to extend from 10:00pm until 11:00pm the hours during which Live Performances may be presented at Limited Live Performance Locales in the Union Street Neighborhood Commercial District.

Can you please provide a copy of this letter to the members of the Land Use Committee at the October 17, 2016 hearing?

Thank you, and let me know if you have any questions,  
Maggie

**Maggie Weiland**

Deputy Director  
San Francisco Entertainment Commission  
City Hall, Room 453  
415-554-7793 (direct line) | 415-554-7934 (fax)  
[Maggie.Weiland@sfgov.org](mailto:Maggie.Weiland@sfgov.org)  
[Facebook](#) | [Blog](#)



21



Entertainment Commission

October 5, 2016

Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA. 94102

**RE: Board of Supervisors File # 160962 Ordinance Amending the Police Code – Limited Live Performance Permits – Union Street Neighborhood Commercial District**

Clerk of the Board of Supervisors:

The Entertainment Commission, during its meeting on October 4, 2016, discussed the legislation amending the Police Code to allow the Director of the Entertainment Commission to extend from 10:00pm until 11:00pm the hours during which Live Performances may be presented at Limited Live Performance Loci in the Union Street Neighborhood Commercial District.

After careful consideration, the Commission voted to endorse the proposed ordinance regarding Police Code Section 1060.38.1 as it pertains to Limited Live Performance Loci in the Union Street Neighborhood Commercial District.

If you have any questions, please contact the Entertainment Commission at 415-554-7793.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jocelyn Kane'.

Jocelyn Kane  
Executive Director, on behalf of the  
San Francisco Entertainment Commission

---

**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors; BOS Legislation, (BOS)  
**Subject:** FW: City of Brisbane Re: Draft Board Resolution Pertaining to Brisbane Baylands File # 161044  
**Attachments:** brisbane10042016.pdf

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

From: Padilla, Ingrid [mailto:ipadilla@ci.brisbane.ca.us]  
Sent: Tuesday, October 04, 2016 1:27 PM  
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
Subject: City of Brisbane Re: Draft Board Resolution Pertaining to Brisbane Baylands File #161044

Dear Clerk of the Board,

Please forward the following correspondence to the County of San Francisco's Board of Supervisors regarding this evening's agenda item File #161044- the Draft Board Resolution Pertaining to the Brisbane Baylands.

Please include this letter in your records and we will also provide copies at tonight's meeting.

Sincerely,

Ingrid Padilla Interim City Clerk  
Direct (415) 508-2113 | Fax (415) 467 4989

City of Brisbane  
50 Park Place, Brisbane, California 94005 [www.brisbaneca.org](http://www.brisbaneca.org)

22



## CITY OF BRISBANE

50 Park Place  
Brisbane, California 94005-1310  
(415) 508-2100  
Fax (415) 467-4989

October 4, 2016

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

Subject: Draft Board Resolution Pertaining to Brisbane Baylands File #161044

Dear County of San Francisco Board of Supervisors,

We, the City Council of the City of Brisbane, hereby go on record in opposition to Resolution 161044. Utilizing misinformation in recent news article the authors of this resolution are pressing the San Francisco Board of Supervisors to do the unthinkable – demand veto power over another city's planning process by threatening the annexation of the entire City of Brisbane.

The Brisbane City Council fully understands the significance of the Baylands project to both the City of Brisbane and the larger region, and takes its decision-making obligations seriously. Our duty has driven the City to engage in a thorough, deliberate and transparent review process, which includes receiving input from neighboring cities.

During the Baylands draft Environmental Impact Review (EIR) process, numerous agencies in San Francisco including the Mayor's Office, Planning Department, Public Utilities and the Municipal Transportation Authority reviewed the draft EIR and offered substantive comments within the legally prescribed time limits. The San Francisco Board of Supervisors provided no comments.



The letter from the San Francisco Office of the Mayor (letter attached) recommends a land use alternative consisting of a solar farm, Recology expansion, limited commercial/office, and a high speed rail maintenance yard. This letter and Resolution 161044 are not consistent.

The draft resolution before the Board of Supervisors demonstrates little or no understanding of the actual EIR content. The Brisbane City Council will conduct its first public hearing regarding the EIR on November 17<sup>th</sup>, 2016, with an expected closing of the hearings in Spring 2017. Because of State law, regional significance, and remediation complexities of the site, the Brisbane City Council will conduct a thorough review of the environmental impacts to make an informed decision regarding the certification of the EIR. In addition to remediation concerns, the Council will take into account regional issues such as traffic, safety, building on unstable soils, municipal services, and other critical components.

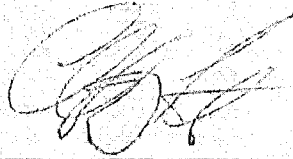
Last year the City of Brisbane became the first local government in the State of California to receive a gold level Beacon Award from the Institute for Local Government for its comprehensive approach to addressing climate change and measurable reductions in energy and greenhouse emissions. This week we will be receiving a Platinum Level Spotlight Award at the annual League of CA Cities Conference for Sustainability Best Practices – we are the only city in the State to ever receive this award at the Platinum Level. We would also like to note that over the past 20 years, Brisbane's residential growth has been 50%.

The Baylands will no doubt be a proud product of our vision and values. We hope the larger community of the Bay Area will share in our enthusiasm and commitment towards responsible planning and allow for proper process to determine the best possible outcome for the site.

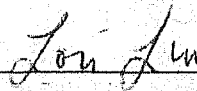
We strongly urge you, the San Francisco Board of Supervisors, to support Brisbane's move toward creating a vibrant and regionally appropriate development on the Baylands site. Threats to dissolve our City and annex it into San Francisco are tactics of bullying and intimidation and not what we would expect from the Board.

We strongly urge you to reject this divisive and harmful resolution, and instead work constructively with Brisbane in addressing regional issues.

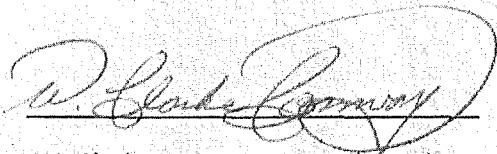
Sincerely,



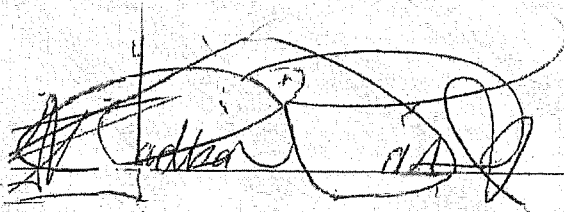
Clifford R. Lentz, Mayor



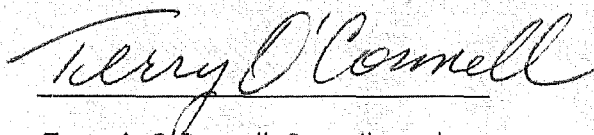
Lori S. Liu, Mayor Pro Tempore



W. Clarke Conway, Councilmember



Madison Davis, Councilmember



Terry A. O'Connell, Councilmember

Enclosure

cc County of San Mateo Supervisor Adrienne J. Tissier, District 5

California State Assembly Member Kevin Mullin, District 22

California State Senator Jerry Hill, District 13

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE  
MAYOR

January 21, 2014  
John Swiecki, AICP  
Community Development Director  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

via e-mail: [eir@ci.brisbane.ca.us](mailto:eir@ci.brisbane.ca.us)

**Re: Draft Environmental Impact Report (DEIR) for the Brisbane Baylands**  
Dear Mr. Swiecki:

Enclosed are comments from San Francisco Agencies and Departments on the above-referenced Draft EIR. Included are comments from the San Francisco Municipal Transportation Agency (SFMTA), the San Francisco County Transportation Authority (SFCTA), and the San Francisco Planning Department. It is our understanding that you will also be receiving a separate comment letter from the San Francisco Public Utilities Commission.

In addition to the enclosed comment letters, we would like to highlight several issues of local and regional importance:

San Francisco strongly supports Recology's desire to modernize and consolidate its existing facilities to meet San Francisco's goal of achieving zero waste by 2020. Recology's plan to expand its operations on 21.3 acres of the Brisbane Baylands project area, as reflected in the CPP-V variant, is critical to achieving this goal. We applaud Recology's thoughtful expansion plan and would not support alternative uses at the proposed Recology expansion location.

San Francisco does not support moving the Caltrain Bayshore Station farther south from its current location. With the coming electrification of Caltrain and more frequent service, tens of thousands of future San Francisco households and workers in Visitation Valley, Executive Park, Hunters Point Shipyard and Candlestick Point will increasingly depend on a convenient and accessible Caltrain Bayshore Station. The attached letter from SFMTA expands upon this concern and related technical issues.

San Francisco appreciates acknowledgement in the Baylands DEIR that the California High Speed Rail Authority (CHSRA) has identified the Baylands as the recommended location for an approximately 100-acre High Speed Rail Terminal Storage and Maintenance Facility (TSMF), as the HSR service will be a blended service, with facilities jointly used by California High Speed Rail and Caltrain (Bay Area to Central Valley High Speed Rail EIR – Supplemental Alternatives Analysis, 2010). We suggest a more in-depth analysis of the implications of the Baylands proposals upon the CHSRA project. We suggest that you combine the future storage facility with the Renewable

Energy Alternative already analyzed in the DEIR (Chapter 5) into a new Variant on that Alternative.

We disagree with the statement in the Draft EIR that the CHSRA project is premature and speculative. Construction contracts for the first 29 miles of rail have already been signed and requests for qualifications for construction of the next 60 mile segment of rail have been released by the CHSRA. Summary of Requirements for Operations and Maintenance Facilities for that project has also been prepared in April of 2013. That document identifies the need for and conceptual design of an approximately 100 acre railyard facility in the vicinity of San Francisco. The Baylands was the recommended location for such a railyard in the CHSRA EIR.

Thank you for the opportunity to comment on this important and transformative project. Please feel free to contact the undersigned if you have any questions.

Sincerely,



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Ken Rich  
Director of Development

Office of Economic and Workforce  
Development



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Gillian Gillett  
Director of Transportation  
Policy

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**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: Rincon Hill construction

30 emails were received with subject matter similar as below.

**From:** Amanda Law [mailto:amanda.law@gmail.com]  
**Sent:** Friday, October 07, 2016 8:51 AM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Cc:** Lee, Mayor (MYR) <mayoredwinlee@sfgov.org>  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill. ❖

--  
Sent from Gmail Mobile

23

**Lagunte, Richard (BOS)**

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**From:** Paul McCormick <pmccormick100@gmail.com>  
**Sent:** Friday, October 07, 2016 7:07 AM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control—something that has been sorely lacking around Rincon Hill.

Sincerely  
Paul McCormick

**Lagunte, Richard (BOS)**

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**From:** Shallott Guerin <shallyrguerin@gmail.com>  
**Sent:** Thursday, October 06, 2016 11:32 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sent from my iPhone (which misspells and alters text relentlessly)

**Lagunte, Richard (BOS)**

---

**From:** Brenda wen <brendawenmgt@gmail.com>  
**Sent:** Thursday, October 06, 2016 11:17 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.



**Lagunte, Richard (BOS)**

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**From:** Steve Cookston <steve@motiontherapeutics.com>  
**Sent:** Thursday, October 06, 2016 5:15 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sincerely,

Steve



Steve Cookston  
*President & CEO*  
Motion Therapeutics, Inc.  
338 Spear St.  
Unit 42B  
San Francisco, CA 94105  
415.615.0800  
415.404.7371 Fax  
[steve@motiontherapeutics.com](mailto:steve@motiontherapeutics.com)  
[www.motiontherapeutics.com](http://www.motiontherapeutics.com)

**Lagunte, Richard (BOS)**

---

**From:** Ben Hsieh <hsieh\_b2004@yahoo.com>  
**Sent:** Thursday, October 06, 2016 4:02 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sent from my iPhone

**Lagunte, Richard (BOS)**

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**From:** Alice Cheng <alice88cheng@gmail.com>  
**Sent:** Thursday, October 06, 2016 3:54 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. This affects not just the adults who have to go to work the next day, it also impact the sleep of children. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

I appreciate your attention to this matter.

Thank you very much!

Sincerely,

Alice Cheng-Bennett

**Lagunte, Richard (BOS)**

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**From:** Walt Miller <wedm.wd@me.com>  
**Sent:** Thursday, October 06, 2016 3:52 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sincerely,

Walter D Miller

Infinity Owner Unit D 30D

Sent from my iPad

**Lagunte, Richard (BOS)**

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**From:** Stephanie Lee <stephchang@aol.com>  
**Sent:** Thursday, October 06, 2016 3:21 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Stephanie Lee.

Sent from my iPhone

**Lagunte, Richard (BOS)**

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**From:** Elaine Lam <elaine.lam@gmail.com>  
**Sent:** Thursday, October 06, 2016 3:13 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

Hi-

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Thank you.  
Elaine

## Lagunte, Richard (BOS)

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**From:** Shirley Cookston <shirley@cookstongroup.com>  
**Sent:** Thursday, October 06, 2016 3:06 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.%00  
Sent from [Mail](#) for Windows 10

**Lagunte, Richard (BOS)**

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**From:** mainfield@juno.com  
**Sent:** Thursday, October 06, 2016 3:01 PM  
**To:** Board of Supervisors, (BOS)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

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Forget Guns, This Flashlight Is The World's Brightest TM Flashlight  
<http://thirdpartyoffers.juno.com/TGL3141/57f6ca0224584a012a69st02vuc>



**Lagunte, Richard (BOS)**

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**From:** Jameel Khalfan <jameel.khalfan@gmail.com>  
**Sent:** Thursday, October 06, 2016 2:51 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

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**Lagunte, Richard (BOS)**

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**From:** Andrew Hwang <andrew.y.hwang@gmail.com>  
**Sent:** Thursday, October 06, 2016 2:48 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill Construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

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## **Lagunte, Richard (BOS)**

---

**From:** Michael Bandurski <mbandurski@jefferies.com>  
**Sent:** Thursday, October 06, 2016 2:23 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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**Lagunte, Richard (BOS)**

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**From:** Jeffrey Heller <JeffreyH@hellermanus.com>  
**Sent:** Monday, October 03, 2016 9:59 AM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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## **Lagunte, Richard (BOS)**

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**From:** eric.c.evans@hotmail.com  
**Sent:** Sunday, October 02, 2016 6:48 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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Eric

**Lagunte, Richard (BOS)**

---

**From:** Thao Dodson <thao.dodson@gmail.com>  
**Sent:** Sunday, October 02, 2016 6:43 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

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Your Trully,

Thao Dodson

338 Spear Street Apartment # 39 b

Sent from my iPad

## Lagunte, Richard (BOS)

---

**From:** Chiodin, Davy <davy.chiodin@gmail.com>  
**Sent:** Sunday, October 02, 2016 10:30 AM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

Hello,

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

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We'd very much appreciate your careful consideration.

Regards

Davy

**Lagunte, Richard (BOS)**

---

**From:** June Lin <ariesjune@gmail.com>  
**Sent:** Friday, September 30, 2016 6:21 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

June Kerr  
301 Main Street, Unit 9B



## Lagunte, Richard (BOS)

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**From:** Nathaniel Butler <butler.nathaniel.l@gmail.com>  
**Sent:** Friday, September 30, 2016 11:04 AM  
**To:** Board of Supervisors, (BOS); Kim, Jane (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

Good morning,

First, I want to thank you all for your time in trying to make San Francisco such a great city to live in. I appreciate all the time and effort you put into your jobs. It's a hard job answering to the many and varied requests (demands?) of the public.

Today I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood. This is very similar to the form letter that I am sure you are receiving from many residents in the Rincon Hill neighborhood. (I used the form letter as the basis for this email.)

The basic issue is that there is a lot of construction in the Rincon Hill neighborhood. It's almost non-stop. One project finishes and another starts. Lanes get blocked, traffic gets snarled, night work is noisy, and I end up with metal shavings on my patio. Seriously. During the construction of the Lumina, I occasionally found sharp, curly metal shavings about 1 to 2 inches long in my patio. We need housing. I understand that. I agree with that. I applaud the city's efforts to increase housing and accept that I will be inconvenienced by the construction to some degree.

However, I also feel the city is not doing enough to consider the cumulative impacts of construction in the Rincon Hill neighborhood. The amount of night construction, the number of sidewalks or lanes blocked by construction, the constant noise of construction, the increased air pollution load of the heavy construction vehicles, et cetera is decreasing the quality of life in the area. It was so nice once the Lumina finished construction because finally it was peaceful outside instead of the constant construction noise.

My three requests:

- 1) Please more carefully consider granting night permits except those strictly required for special circumstances. Developers, PG&E, etc. should not be automatically given any night permit requested. City planners need to take into consideration the cumulative effect of the number of night permits.
- 2) Please focus more attention on enforcement of mitigation measures against dirt and dust. Metal shavings should not drop onto my patio.
- 3) Please require that construction sites have proper traffic control--something that has been sorely lacking around Rincon Hill.

Thanks for your time reading this and efforts making San Francisco a great place to live.

All the best,  
Nathaniel L. Butler

## **Lagunte, Richard (BOS)**

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**From:** TC <tc90630@gmail.com>  
**Sent:** Thursday, September 29, 2016 10:17 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

**Lagunte, Richard (BOS)**

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**From:** Brad Kuhns <bradkuhns@me.com>  
**Sent:** Thursday, September 29, 2016 9:05 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

Hello -

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Brad Kuhns  
301 Main Street 16H  
San Francisco CA 94105

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Brad Kuhns  
+1 917-595-0834  
[bradkuhns@me.com](mailto:bradkuhns@me.com)

## **Lagunte, Richard (BOS)**

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**From:** Lauren Witcoff <drlaurenj@yahoo.com>  
**Sent:** Thursday, September 29, 2016 7:00 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

**Lagunte, Richard (BOS)**

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**From:** Felicia Lee <fjllinfo@gmail.com>  
**Sent:** Thursday, September 29, 2016 4:37 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sincerely,

F. Lee and J. Larkin

**Lagunte, Richard (BOS)**

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**From:** Bob <rschonfeld@aol.com>  
**Sent:** Thursday, September 29, 2016 4:08 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sincerely,

Robert Schonfeld  
338 Spear St Unit 28C  
San Francisco, CA 94105

Sent from my BlackBerry - the most secure mobile device

**Lagunte, Richard (BOS)**

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**From:** Susana Sanchez <susana@colskymedia.com>  
**Sent:** Thursday, September 29, 2016 3:32 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

To whom it may concern:

We are writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Your attention to this request is much appreciated.

*Susana Sanchez & Don Surath  
318 Spear St., #4H  
Cell (415) 259-8959 & (650) 224-4010*

**Lagunte, Richard (BOS)**

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**From:** mattmorr@gmail.com on behalf of Matthew Morrison <matt@daan.com>  
**Sent:** Thursday, September 29, 2016 3:16 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

Lumina, PGE construction, the rehabilitation of the Rincon Hill postal facility, etc - are all negatively impacting those of us who live in the neighborhood. This kind of disruption would not be tolerated in most other areas of the city.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Thanks for your attention to this matter. Calls to 311 don't seem to help.

Matt Morrison



**Lagunte, Richard (BOS)**

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**From:** Kenneth Chiu <kechiu@gmail.com>  
**Sent:** Thursday, September 29, 2016 2:45 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sent from my iPhone

**Lagunte, Richard (BOS)**

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**From:** Charlene Chang <charlene.sl@gmail.com>  
**Sent:** Wednesday, September 28, 2016 9:17 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Sent from my iPhone

**Lagunte, Richard (BOS)**

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**From:** Srinu Vishnubhatta <svishnubhatta@gmail.com>  
**Sent:** Wednesday, September 28, 2016 4:58 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill. ❖

Srinu Vishnubhatta  
Resident of The Infinity@SOMA

**Lagunte, Richard (BOS)**

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**From:** Jon Wright <wrightjon81@gmail.com>  
**Sent:** Tuesday, September 27, 2016 8:06 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Lee, Mayor (MYR)  
**Subject:** Rincon Hill construction

I am writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents of Rincon Hill have suffered from lack of sleep as a result of endless night construction. The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City to act responsibly again and halt all night permits except those strictly required for special circumstances.

Additionally, there are heightened health risks from inconsistent enforcement of mitigation measures against dirt and dust.

Finally, construction sites require proper traffic control--something that has been sorely lacking around Rincon Hill.

Thank you,

Jon Wright  
Resident of 338 Spear Street

## **Gosiengfiao, Rachel (BOS)**

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**From:** Board of Supervisors, (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: Rincon Hill Construction - impact on residents of Rincon Hill

**From:** Annabel R. Chang [mailto:annabel.chang@gmail.com]  
**Sent:** Saturday, October 01, 2016 11:34 AM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Kim, Jane (BOS) <jane.kim@sfgov.org>  
**Cc:** Lee, Mayor (MYR) <mayoredwinlee@sfgov.org>  
**Subject:** Rincon Hill Construction - impact on residents of Rincon Hill

Dear Supervisors and Mayor Lee,

We are writing to request relief from the severe impacts of round-the-clock construction in the Rincon Hill neighborhood.

For several years now, residents and families of Rincon Hill (Supervisor Kim's D6 District) have suffered from lack of sleep as a result of endless night construction. We are very concerned that The City has been issuing night permits to construction projects as a matter of routine, without any regard for the thousands of residents and families in the area. In the past, the City acted responsibly, strictly limiting night construction permits; but that neighborhood protection policy has been abandoned, and now there is continuous noise all night long. It is time for the City and developers to act responsibly again and halt all night permits except those strictly required for special circumstances.

Specifically, my family and I are most concerned about the pending development of 160 Folsom and a possible night construction permit. As you may know, there are now at least 2 large residential apartments close by with thousands of residents who would be impacted by ongoing nighttime construction.

**We respectfully request that you take the following action:**

1. Do not issue a night construction permit for 160 Folsom.
2. Please take into account heightened health risks from inconsistent enforcement of mitigation measures against dust and dirt.
3. Please require construction sites to require proper traffic control, particularly in the Rincon Hill region.

Respectfully,

Annabel R. Chang  
Resident of District 6, Rincon Hill Community