

1 [Board Response - Civil Grand Jury Report - Where There's Smoke... The Need to Strengthen
2 the Art Commission's Stewardship of San Francisco's Cultural Legacy]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
4 **and recommendations contained in the 2011-2012 Civil Grand Jury report entitled**
5 **"Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of**
6 **San Francisco's Cultural Legacy" and urging the Mayor to cause the implementation of**
7 **accepted findings and recommendations through his/her department heads and**
8 **through the development of the annual budget.**

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10 WHEREAS, Under California Penal Code Section 933 et seq., the Board of
11 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
12 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

13 WHEREAS, In accordance with Penal Code Section 933.05(c), if a finding or
14 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
15 county agency or a department headed by an elected officer, the agency or department head
16 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
17 response of the Board of Supervisors shall address only budgetary or personnel matters over
18 which it has some decision making authority; and

19 WHEREAS, The 2011-2012 Civil Grand Jury Report entitled "Where There's
20 Smoke...The Need to Strengthen the Art Commission's Stewardship of San Francisco's
21 Cultural Legacy" is on file with the Clerk of the Board of Supervisors in File No. 120793, which
22 is hereby declared to be a part of this resolution as if set forth fully herein; and

23 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
24 to Finding Nos. 1, 9, 10, 13, 17, 18, 19, 23, 24, 27, 34, 35, 36, 37, and 38 as well as
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1 Recommendations 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 22, and 23 contained in the
2 subject Civil Grand Jury report; and

3 WHEREAS, Finding No. 1 states: “The City, through SF AC and GFTA, devotes public
4 resources to art and cultural programs in more generous amounts, per capita, than any other
5 municipality in the United States;” and

6 WHEREAS, Finding No. 9 states: “The Civic Art Collection is a vast assemblage of
7 tangible art and artifacts, representing a substantial cultural and financial asset of the City and
8 County;” and

9 WHEREAS, Finding No. 10 states: “Promotion of the Collection as an attraction of the
10 City is limited;” and

11 WHEREAS, Finding No. 13 states: “The inventory and cataloging function of the SFAC
12 is delegated to at least a single paid staff member and two interns which is insufficient;” and

13 WHEREAS, Finding No. 17 states: “The maintenance budget for the Collection is
14 grossly inadequate to the task of preservation of the Collection;” and

15 WHEREAS, Finding No. 18 states: “Art maintenance is more appropriately an
16 operating rather than capital cost as it is a day-to-day responsibility of SF AC;” and

17 WHEREAS, Finding No. 19 states: “Art maintenance is inappropriately treated as a
18 capital expense by City government;” and

19 WHEREAS, Finding No. 23 states: “SF AC has not given the support and maintenance
20 of the Cultural Centers the priority the Charter requires;” and

21 WHEREAS, Finding No. 24 states: “SF AC has not addressed the long-term funding,
22 stability and safety needs of the Cultural Centers;” and

23 WHEREAS, Finding No. 27 states: “The District Attorney has failed to respond to
24 Sunshine Complaint No. 11023;” and

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1 WHEREAS, Finding No. 34 states: “For general operating and SF AC Gallery exhibition
2 expenses, SF AC relies on public funds that are designated by Charter for ‘maintenance of a
3 symphony orchestra ...;” and

4 WHEREAS, Finding No. 35 states: “Since 1935, SF AC has chosen the San Francisco
5 Symphony as recipient of those funds;” and

6 WHEREAS, Finding No. 36 states: “SF AC is without legal or practical recourse if SFS
7 revoked its annual contribution of 40% of those funds given to SFAC;” and

8 WHEREAS, Finding No. 37 states: “The manner in which SFAC funds its operations by
9 a giveback donation of SFS monies creates, at the least, an appearance of fiscal impropriety
10 and violates the intent of the 1935 Charter amendment;” and

11 WHEREAS, Finding No. 38 states: “GFTA funds the San Francisco Symphony for over
12 \$600,000 annually for operating expenses;” and

13 WHEREAS, the Recommendation No. 1 states: "To improve the governance of the
14 department, increase the number of at-large Commissioners to eight members, through
15 Charter amendment;” and

16 WHEREAS, the Recommendation No. 2 states: "As an alternative, establish a Citizens
17 Advisory Committee of seven members, appointed by the Mayor, to provide expert guidance
18 in governance and administration, aid in nongovernmental fundraising, and increase the
19 community stature of the department;” and

20 WHEREAS, the Recommendation No. 3 states: "Encourage the creation of a non-profit
21 organization dedicated to raising funds to meet program and operational needs;” and

22 WHEREAS, the Recommendation No. 8 states: "Human and material resources
23 adequate to the task be devoted to the rapid completion of the inventory, appraisal, and
24 cataloging of the Collection;” and

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1 WHEREAS, the Recommendation No. 9 states: "Re-designate maintenance and
2 conservation of the Collection as an operating expense of the SF AC rather than a capital
3 budget item;" and

4 WHEREAS, the Recommendation No. 10 states: "Redirect and dedicate \$1 million,
5 over two years, of the Grants for the Arts/Hotel Tax Fund on a one-time basis to the Arts
6 Commission to fund the inventory, maintenance, storage, de-accessioning, exhibition and
7 installation of the *existing* Collection located in the City, at San Francisco International Airport,
8 and at other City properties;" and

9 WHEREAS, the Recommendation No. 11 states: "Designate Hotel Tax Funds from the
10 initial \$1 million for the development of educational print, on-line and phone app materials to
11 showcase the existing Civic Art Collection located in the City, at San Francisco International
12 Airport, and at other City properties to make the Collection more accessible to City residents
13 and visitors;" and

14 WHEREAS, the Recommendation No. 12 states: "Designate Hotel Tax Fund monies of
15 1% of the value of the Collection (up to \$900,000) on an annual basis for the maintenance
16 and care of the Collection;" and

17 WHEREAS, the Recommendation No. 13 states: "Clarify ownership and maintenance
18 responsibilities for art and statuary on Rec & Park property;" and

19 WHEREAS, the Recommendation No. 14 states: "Complete a SF AC-Rec & Park
20 agreement to ensure compensation for maintenance of art in the City's parks is adequate to
21 support that task and does not impair conservation and maintenance elsewhere;" and

22 WHEREAS, the Recommendation No. 15 states: "SF AC hold public hearings about
23 the Cultural Centers and their short- and long-term funding (for programs and facility
24 maintenance), facility, and safety needs to develop an action plan to secure the Cultural
25 Centers;" and

1 WHEREAS, the Recommendation No. 17 states: "Move the Street Artists Program to
2 the Office of Small Business;" and

3 WHEREAS, the Recommendation No. 18 states: "The District Attorney respond to
4 Sunshine Complaint No. 11023;" and

5 WHEREAS, the Recommendation No. 22 states: "The Arts Commission/Symphony
6 Agreement comply with the intent of the Charter, and the full amount of the tax revenues go
7 toward Symphony operating expenses;" and

8 WHEREAS, the Recommendation No. 23 states: "Redirect Hotel Tax Fund money
9 allocated to the SFS by GFTA to the SF AC;" and

10 WHEREAS, in accordance with Penal Code Section 933.05(c), the Board of
11 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
12 Court on Finding Nos. 1, 9, 10, 13, 17, 18, 19, 23, 24, 27, 34, 35, 36, 37, and 38 as well as
13 Recommendations 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 22, and 23 contained in the
14 subject Civil Grand Jury report; now, therefore, be it

15 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
16 Superior Court that it partially disagrees with Finding 1 for reasons as follows: The Board of
17 Supervisors does not have the actual data to support this finding at this time; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors reports that it agrees with
19 Finding 9; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors reports that it partially
21 disagrees with Finding 10 for reasons as follows: While the Board would like to see the Arts
22 Commission do more to promote the Collection, the Arts Commission is doing what they can
23 with the funds that are available; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
2 Finding 13 for reasons as follows: The Board defers to the Arts Commission's response; and,
3 be it

4 FURTHER RESOLVED, That the Board of Supervisors reports that it agrees with
5 Finding 17; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
7 Finding 18 for reasons as follows: The Board of Supervisors defers to the Controller's
8 response; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
10 Finding 19 for reasons as follows: The Board of Supervisors defers to the Controller's
11 response; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors reports that it partially
13 disagrees with Finding 23 for reasons as follows: The Board of Supervisors defers to the
14 response of the Arts Commission; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors reports that it partially
16 disagrees with Finding 24 for reasons as follows: The Board of Supervisors defers to the Arts
17 Commission's response; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
19 Finding 27 for reasons as follows: The Board of Supervisors is not in a position to agree or
20 disagree with the finding and defers to the District Attorney's response; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
22 Finding 34 for reasons as follows: The Board defers to the response by the City Attorney's
23 Office; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors reports that it agrees with
25 Finding 35; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
2 Finding 36 for reasons as follows: The Arts Commission could request a supplemental
3 appropriation from the Board of Supervisors and/or the Mayor; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
5 Finding 37 for reasons as follows: The City's budget is in compliance with the Charter Section
6 16.106 that requires and annual appropriation for a municipal symphony. The SFAC is in
7 compliance with the acceptance of gifts, granted by Charter Section 5.100; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors reports that it agrees with
9 Finding 38; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors reports that it requires further
11 analysis for Recommendation 1 for reasons as follows: The Board intends to investigate the
12 matter, and the Board requests that, before January 23, 2013, the Arts Commission, Director
13 of Cultural Affairs, and the Office of Small Business returns to the Board with an evaluation of
14 potential options; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors reports that it requires further
16 analysis for Recommendation 2 for reasons as follows: The Board intends to investigate the
17 matter, and the Board requests that, before January 23, 2013, the Arts Commission, Director
18 of Cultural Affairs, and the Office of Small Business returns to the Board with an evaluation of
19 potential options; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors reports that it requires further
21 analysis for Recommendation 3 for reasons as follows: The Board intends to investigate the
22 matter, and the Board requests that, before January 23, 2013, the Arts Commission, Director
23 of Cultural Affairs, and the Office of Small Business returns to the Board with an evaluation of
24 potential options; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors reports that it will implement
2 Recommendation 8 per the Arts Commission's response; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
4 implement Recommendation 9 for reasons as follows: The Board defers to the Controller's
5 response; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
7 implement Recommendation 10 for reasons as follows: The Board will review the matter in
8 conjunction with the City's annual budget cycle in June; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
10 implement Recommendation 11 for reasons as follows: The Board will review the matter in
11 conjunction with the City's annual budget cycle in June; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
13 implement Recommendation 12 for reasons as follows: The Board will review the matter in
14 conjunction with the City's annual budget cycle in June; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors reports that it will implement
16 Recommendation 13 for reasons as follows: The Board defers to the responses from both the
17 Recreation and Park and the Arts Commissions; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
19 implement Recommendation 14 for reasons as follows: It falls outside of the Board's purview;
20 and, be it

21 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
22 implement Recommendation 15 for reasons as follows: It falls outside of the Board's purview;
23 and, be it

24 FURTHER RESOLVED, That the Board of Supervisors reports that it requires further
25 analysis for Recommendation 17 for reasons as follows: The Board intends to investigate the

1 matter, and the Board requests that, before January 23, 2013, the Arts Commission, Director
2 of Cultural Affairs, and the Office of Small Business returns to the Board with an evaluation of
3 potential options; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
5 implement Recommendation 18 for reasons as follows: It falls outside of the Board's purview;
6 and, be it

7 FURTHER RESOLVED, That the Board of Supervisors reports that it has implemented
8 Recommendation 22; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors reports that it will not
10 implement Recommendation 23 for reasons as follows: The Board will review the matter in
11 conjunction with the City's annual budget cycle in June; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the
13 implementation of accepted findings and the recommendation through his/her department
14 heads and through the development of the annual budget.

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