File No. 130604 Committee Item No. 6
Board Item No. _____

# COMMITTEE/BOARD OF SUPERVISORS

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**Committee:** Government Audit and Oversight **Date** September 12, 2013

**Board of Supervisors Meeting** **Date** _____

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**Completed by:** Erica Dayrit **Date** September 6, 2013
**Completed by:** _____ **Date** _____

FILE NO. 130604 RESOLUTION NO.

[Board Response - Civil Grand Jury Report - "Optimizing the Use of Publicly-Owned Real Estate: Achieving Transparency, Momentum and Accountability"]

**Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2012-2013 Civil Grand Jury Report entitled "Optimizing the Use of Publicly-Owned Real Estate: Achieving Transparency, Momentum and Accountability" and urging the Mayor to cause the implementation of accepted findings and recommendations through his department heads and through the development of the annual budget.**

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

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

WHEREAS, The 2012-2013 Civil Grand Jury Report entitled "Optimizing the Use of Publicly-Owned Real Estate: Achieving Transparency, Momentum and Accountability" is on file with the Clerk of the Board of Supervisors in File No. 130604, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond to Finding Nos. 3 and 4 as well as Recommendations 3 and 4 contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 3 states: "The purposes for which the Surplus Property Ordinance was adopted are too narrow to effectively motivate City departments to identify surplus and underutilized properties for other uses or disposition. Further, the ordinance does not provide a department with any incentive to dispose of surplus or underutilized property;" and

WHEREAS, Finding No. 4 states: "Current practice allows City Departments and SFUSD to keep property on their surplus lists indefinitely without any consequence. The concern for a more rational approach to handling under-utilized or surplus property requires that a time limit be imposed on how long property may remain on these lists. If, after a pre-determined period, property which is identified as surplus or underutilized has not been put into use or fully-utilized or no plans have been adopted for its use or full-utilization, there should be specified consequences for the failure to act;" and

WHEREAS, the Recommendation No. 3 states: "The Board of Supervisors should amend Chapter 23A of the Administrative Code to include an incentive for City Departments to identify and dispose of surplus and underutilized properties and to broaden the purposes for which surplus and underutilized properties may be used;" and

WHEREAS, the Recommendation No. 4 states: "The Board of Supervisors and the SF Board of Education should each adopt rules which limit the length of time property may remain on their respective surplus list without action and which address consequences for such inaction;" and

WHEREAS, in accordance with Penal Code Section 933.05(c), the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on Finding Nos. 3 and 4 as well as Recommendations 3 and 4 contained in the subject Civil Grand Jury report; now, therefore, be it

RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that _____ with Finding 3 for reasons as follows: _____; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that _____ with Finding 4 for reasons as follows: _____; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that _____ Recommendation 3 for reasons as follows: _____; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that _____ Recommendation 4 for reasons as follows: _____; and, be it

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

RECEIVED 9/9/2013
VIA EMAIL

**SFMTA**
Municipal Transportation Agency

**July 29, 2013**

**Martha M. Mangold**
**Foreperson**
**County of San Francisco Civil Grand Jury**
**400 McAllister Street, Room 008**
**San Francisco, CA 94102-4512**

***Subject: Response to the Civil Grand Jury's Report on Optimizing the Use of Publicly Owned Real Estate***

**Dear Ms. Mangold:**

This letter is in response to the Civil Grand Jury's Report on *Optimizing the Use of Publicly Owned Real Estate.* The SFMTA appreciates the work of the Grand Jury and wanted to provide you with SFMTA's comments on the section of the report that applies to the Kirkland facility.

Since around 1950, the SFMTA has used the 2.6 acres on Beach at Stockton Streets in Fisherman's Wharf -- Kirkland Yard -- to site buses that provide daily transit service to thousands of Muni riders particularly in the Northern part of the City. Over time, the surrounding land uses have changed. In the past decade, the SFMTA considered relocation of the bus operations from Kirkland to make the site available for alternate uses. However, given the growth in the City and the new transportation projects and vehicles required to support the growth plus the fact that most of the transit facilities are now in the southern part of the City, the SFMTA has felt it was imperative that we continue to use Kirkland as a transit facility.

The need to keep this facility for transit needs has been confirmed by the recently completed *SFMTA's Real Estate and Facilities Vision for the 21st Century Report* (summary report attached), SFMTA now considers Kirkland to be a necessary and strategic location for transit vehicle storage and maintenance, due to location, operating considerations, changing fleets, and constrained real estate. The study did identify some measures that SFMTA should take to address community concerns such as:

- Reducing the fleet assigned to the site, thus eliminating the need to use surrounding streets for normal on-site operations;
- Using the site for articulated buses (including vehicles required for bus rapid transit services) to increase flexibility; and
- Reducing impact on the surrounding neighborhood with canopy-covered facility.

The City's demand for more transit service is expected to grow to an estimated one million Muni riders by 2030. To accommodate the updated ridership projections and provide reliable increased service, SFMTA must retain all existing real estate, and also consider additional sites.



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SFMTA remains committed to working with neighborhoods and communities to minimize impacts from transit operations at the Kirkland Yard.

Thank you for the opportunity to review the Grand Jury's Report.

**Sincerely,**

**Edward R. Reiskin**
**Director of Transportation**

Attachment: *SFMTA's Real Estate and Facilities Vision for the 21st Century Report - Summary*

130604

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

August 12, 2013

The Honorable Cynthia Ming-mei Lee
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street
San Francisco, CA 94102

Dear Judge Lee:

The following is in response to the 2012-2013 Civil Grand Jury report, *"Optimizing the Use of Publicly-Owned Real Estate: Achieving Transparency, Momentum and Accountability"*.

San Francisco's scarce real estate is in high demand. The public has the right to know that all publicly owned real estate is optimally utilized. As mentioned elsewhere in this response, the City is making an effort to increase public transparency. With the integration of the City Property Information Map (PIM) database with the Real Estate Information System (REIS) database, interested citizens will be able to easily know the complete, up to date status of all publicly property.

When a department deems property surplus to its mission, the City should effectively find another use for the property as soon as reasonably possible. Staff continually discusses the best use of City assets on a regular basis and is always looking for development opportunities.

Currently, City code mandates that surplus and underutilized property be developed into affordable housing. If affordable housing cannot be developed on the site, the land should either be transferred to a Department or sold with the proceeds of the sale used to finance affordable housing in the City. While this ordinance was narrowly drawn on purpose, any attempt to broaden the incentives to dispose of property will need to be balanced with the need for affordable housing in San Francisco.

We appreciate the Civil Grand Jury's interest in this topic and thank you for the opportunity to respond.

**The Mayor's Office, the Department of Technology, the Planning Department, the Real Estate Department, the Director of Capital Planning, and the City Administrator consolidated response to the Civil Grand Jury's findings is as follows:**

**Finding 1.** Inadequate readily-accessible public information on publicly-owned real estate is part of the reason some properties have been allowed to languish and deteriorate, at a loss to the City. A more rational approach to handling under-utilized or surplus property requires that a comprehensive, detailed list of public properties is available on an ongoing basis.

The Fleishhacker Pool House is a perfect example of a situation where being "out of sight, out of mind" allowed a property to become so neglected that it eventually was destroyed by fire, resulting in a real loss for the City. A more transparent property database will make such occurrences less likely in future.

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SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE: (415) 554-6141

**Response:** *Disagree.* Disrepair of assets is more a function of the capital needs of the City far outstripping the City's fiscal capacity.

**Finding 2.** Lack of transparent public debate contributes to suboptimal use of City real estate assets.

The Kirkland Property is a perfect case in point. SFMTA may have a good case for retaining the property as a bus maintenance yard as recommended by its consultant. However, allowing SFMTA to abandon stated plans for converting the property to commercial and/or residential use without public debate prevents possibly better, more economically efficient alternatives from being considered.

**Response:** *Disagree.* Expert advice, peer review and multi-departmental discussions regarding best use of City assets is secured on a regular basis by departments, and often a topic of discussion by the Capital Planning Committee.

**Finding 3.** The purposes for which the Surplus Property Ordinance was adopted are too narrow to effectively motivate City departments to identify surplus and underutilized properties for other uses or disposition. Further, the ordinance does not provide a department with any incentive to dispose of surplus or underutilized property.

**Response:** *Agree.* However, it should be noted that the Surplus Property Ordinance is purposely narrow and focused solely on affordable housing development.

**Finding 5.** Passive management of publicly-owned real estate leads to valuable properties lying fallow for years. The City and SFUSD leadership must be charged and empowered to develop plans for utilization of surplus / under-utilized parcels, including public-private partnerships where feasible and desirable.

Very valuable properties owned by City departments and SFUSD have been underutilized for decades and present prime opportunities to be repurposed or sold to create value for the City and SFUSD. As noted in this report, the properties at 155/165 Grove Street, the Fire Chief s House at 870 Bush Street, the lot at 7th Avenue and Lawton Street, and 1950 Mission Street are a few examples of properties that have been passively managed.

**Response:** *Agree.*

**The Mayor's Office, the Department of Technology, the Planning Department, the Real Estate Department, the Director of Capital Planning, and the City Administrator consolidated response to the Civil Grand Jury's recommendations is as follows:**

**Recommendation 1.1:** The web-based San Francisco Property Information map currently used to display Planning and Building Inspection Department information should be integrated with and further developed by other departments to convey complete information about City properties.

**Response:** *Recommendation has been implemented.* The integration of the Property Information Map (PIM) database with the Real Estate Information System (REIS) database has already commenced as of

July, 2013. Beta testing is underway, and full integration of data, providing greater transparency to the public, will be complete by first quarter, calendar year 2014. Representatives of all City departments with real estate assets have access to the system and understand the protocols to initiate changes in status of those assets. The database is updated automatically as property status changes.

**Recommendation 1.2:** The online database of all properties owned by SFUSD and all City departments, including revenue-generating enterprise departments, needs to include information required by Chapter 23A of the Administrative Code.

**Response:** *Recommendation will be implemented in the future.* The City Administrator's Office, through the Director of Property, intends to present a legislative clean-up to Chapter 23A of the Administrative Code for Board and Mayor consideration by no later than first quarter, calendar year 2014.

**Recommendation 1.3:** City departments, commissions and agencies should be directed to maintain and update their departmental real estate database, which appears in the Real Estate Division Map of Real Property and Property Book.

**Response:** *Recommendation will be implemented in the future.* Pursuant to the requirements of Chapter 23A of the Administrative Code, as amended, this will be accomplished.

**Recommendation 1.4:** The Director of Real Estate should be required to review the list annually to confirm that all departments have made a complete report on their properties, including surplus and underutilized properties, in accordance with the requirements of Chapter 23A of the Administrative Code; and the City Administrator should be required to report annually to the Board of Supervisors regarding the City's real property assets.

**Response:** *Recommendation will be implemented in the future.* Pursuant to the requirements of Chapter 23A of the Administrative Code, as amended, this will be accomplished. However, the annual report to the Board of Supervisors relative to the City's real property assets will be contained within the overall Capital Plan documents provided to the Board annually, as recommended by the City's Capital Planning Committee.

**Recommendation 2:** The City and SFUSD should activate their respective Surplus Property Advisory Committee because the meetings of these committees provide a public forum in which to discuss best uses of publicly-owned real estate and each committee should be charged with monitoring uses of public property and making sure that there is ongoing accountability with respect to surplus and underutilized properties.

**Response:** *Recommendation will not be implemented.* On-going adjustments to the level of information provided in the City's property database, which is available to the public via the City's website, will provide sufficient transparency regarding the status of the City's publicly-owned real estate. This will be coupled with additional more in-depth discussions regarding property status with the Capital Planning Committee, whose meetings are open to the public. With these steps, we do not believe Advisory Committee activation is necessary at this time.

**Recommendation 3:** The Board of Supervisors should amend Chapter 23A of the Administrative Code to include an incentive for City Departments to identify and dispose of surplus and underutilized properties and to broaden the purposes for which surplus and underutilized properties may be used.

**Response:** *Recommendation will be implemented and requires further analysis.* The City Administrator's Office, through the Director of Property, intends to present a legislative clean-up to Chapter 23A of the Administrative Code for Board and Mayor consideration by no later than first quarter, calendar year 2014.

Current City policy directs surplus property to be developed as affordable housing, and a change would require further analysis. Any new policy which would broaden the uses of surplus and underutilized properties must be balanced with the need for affordable housing in San Francisco.

**Recommendation 5.2:** The Capital Planning Policy Committee of the San Francisco Capital Planning Program should be made responsible for overseeing the publicly-owned surplus and underutilized property list for the City and for assuring that clear plans for the disposition or repurposing of such properties are generated and incorporated into the 10 year rolling capital plan of the Capital Planning Program.

**Response:** *Recommendation will be partially implemented.* The City Administrator's Office, through the Director of Property, intends to present a legislative clean-up to Chapter 23A of the Administrative Code for Board and Mayor consideration by no later than first quarter, calendar year 2014. This package will include staff's recommendations to provide greater authority for the Director of Property to ensure conformance with the Code by Departments. The Director of Property will collaborate with the Capital Planning Committee, and the Capital Plan will contain a section in the future relative to status of surplus and underutilized City assets.

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

Sincerely,

Edwin M. Lee
Mayor

130604

**San Francisco Unified School District**
**OFFICE OF THE GENERAL COUNSEL**
555 Franklin Street, 3rd Floor, San Francisco, CA 94102
TELEPHONE (415) 241-6054; FACSIMILE (415) 241-6371

**Richard Carranza**
*Superintendent of Schools*

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*Sr. Deputy General Counsel*
millera1@sfusd.edu

August 13, 2013



San Francisco Board of Supervisors
c/o Clerk of the Board, Angela Calvillo
Attn. Government Audit and Oversight Clerk
1 Dr. Carlton B. Goodlet Place
Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an information copy of the San Francisco Unified School District's response to the 2012-2013 Civil Grand Jury Report entitled "*Optimizing the Use of Publicly-Owned Real Estate* " which was released on June 13, 2013. The attached document responds to the findings and recommendations in the civil grand jury report as required by California Penal Code Sections 933 and 933.05.

Sincerely,

Angela Miller

Angela Miller, Senior Deputy General Counsel

Encl.

**SAN FRANCISCO UNIFIED SCHOOL DISTRICT RESPONSE TO CIVIL GRAND JURY REPORT "OPTIMIZING THE USE OF PUBLICLY-OWNED REAL ESTATE" (Released on June 13, 2013)**

For each Finding of the Civil Grand Jury, the response must either: (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. For each Recommendation made by the Civil Grand Jury, the responding party must provide one of the four responses:

Response One: the recommendation has been implemented, with a summary explanation of how it was implemented;
Response Two: the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation;
Response Three: the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of the report); or
Response Four: the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is.

**FINDINGS**

For each Finding of the Civil Grand Jury, the response must either: (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why.

1. **Inadequate readily-accessible public information on publicly-owned real estate is part of the reason some properties have been allowed to languish and deteriorate, at a loss to the City. A more rational approach to handling under-utilized or surplus property requires that a comprehensive, detailed list of public properties is available on an ongoing basis. The Fleishacker Pool House is a perfect example of a situation where being "out of sight, out of mind" allowed a property to become so neglected that it was destroyed by fire, resulting in a real loss for the City. A more transparent property database will make such occurrences less likely in future.**

   Response: Disagree.

   The San Francisco Unified School District maintains a comprehensive list of all properties owned, leased or occupied by the District. This comprehensive list is organized by assessor's parcel number and includes information including but not limited to the property by address, name, use, lot area, building area, number of classrooms, programs and whether the property is leased to non-SFUSD users or tenants. In 2007, 2009 and 2010 this comprehensive property list, with yearly updates, was included as an integral part of the District's published and Board of Education approved "10 Year Capital Plan." This was a public document that was posted on the District website with access to all members of the public who are interested. The property inventory is updated regularly to reflect the current status and use of all SFUSD owned and leased properties and is jointly shared with the City. The District anticipates an update to the 10 Year Capital Plan within the next year.

2. **Lack of transparent public debate contributes to suboptimal use of City real estate assets. The Kirkland property is a perfect case in point. SFMTA may have a good case for retaining the property as a bus maintenance yard as recommended by its consultant. However, allowing SFMTA to abandon stated plans for converting the property to commercial and/or residential use without public debate prevents possibly better, more economically efficient alternatives from being considered.**

   Response: Finding not applicable to SFUSD.

3. **Current practice allows City Departments and SFUSD to keep property on their surplus lists indefinitely without any consequence. The concern for a more rational approach to handling under-utilized or surplus property requires that a time limit be imposed on how long property may remain on these lists. If, after a pre-determined period, property which is identified as surplus or under-utilized has not been put into use or fully utilized or no plans have been adopted for its use or full utilization, there should be specified consequences for the failure to act.**

   Response: Disagree.

   The California Education Code specifies a precise and complex process for public school districts to declare properties surplus and eventually dispose of properties. In 2006 the Board of Education appointed a "Surplus Property 7-11 Committee (composed of more than seven but no more than eleven members) in order to determine whether there were properties within the district that were not "being used for educational purposes" that could be determined surplus. In May of 2007 the Committee presented the "Surplus Property Report" to the Board of Education and the Board declared 10 properties surplus, including up to 20% of the district space and real property that may be considered surplus due to declines in enrollment in the previous decade.

   Since that action in 2007, significant changes have occurred within the District. The District's enrollment has seen slow but steady growth upward. A new student enrollment policy and transportation policy have changed the way families throughout the District select and enroll their children in public schools. The District has embarked on a number of significant academic initiatives, all with the purpose to close the decades old achievement gap between certain groups within the City. This has significantly changed the grade configurations of a number of District schools and seen several previously closed schools reopen with new programs and a new focus. In addition, the District has seen an increased number of public charter schools demanding facilities from the District under State Proposition 39.

   As an example of rapid changes occurring within the District, the following has occurred since 2007 at 7 of the 10 sites that were originally named as surplus:

   1. 20 Cook Street: Fully occupied administrative center for the District's rapidly expanding Early Learning/Child care programs. The Property is no longer considered surplus.

2. 1155 Page Street: Property Leased to a private PreK/child-care school on a 20 year ground lease. Property is no longer considered surplus.
3. 700 Font Blvd: Sold in 2011 to San Francisco State University for $11.1 million.
4. 2340 Jackson school site: Building was fully renovated and reopened as the new District SF Montessori public school. Property is no longer surplus.
5. 1512 Golden Gate Avenue: Building was fully renovated and reopened as the Creative Arts and Gateway Middle school public charter schools. Property is no longer surplus.
6. Properties located at 1950 Mission, 1101 Connecticut Street will be part of a multi-parcel property exchange currently in progress and anticipated to occur within the next 6 months.

These 7 sites represent only a fraction of the dramatic site changes throughout the district caused by the fluid and changing conditions of public education in San Francisco. In addition to these developments, a new school was recently reopened at the previously leased site for the new District Chinese Immersion E.S.; a new middle school was constructed at Bessie Carmichael; and a new middle school for 650 students is being constructed to replace the former Willie Brown Academy School in the Bayview. Imposing arbitrary time limits or specified consequences on how long property may remain on a surplus property list would provide the District with little or no ability to respond to the fluid and changing conditions within the District for facility needs.

4. **Passive management of publicly-owned real estate leads to valuable properties lying fallow for years. The City and SFUSD leadership must be charged and empowered to develop plans for utilization of surplus/underutilized parcels, including public-private partnerships where feasible and desirable. Very valuable properties owned by City departments and SFUSD have been underutilized for decades and present prime opportunities to be repurposed or sold to create value for the City and SFUSD. As noted in this report, the properties at 155/165 Grove Street, the Fire Chief's House at 870 Bush Street, the lot at 7th Avenue and Lawton Street, and 1950 Mission Street are a few examples of properties that have been passively managed.**

Response: Disagree in part.

While the District agrees that historically the management of real estate assets could have been performed in a less passive manner, selling off valuable properties would not solve the severe financial problems faced by school districts throughout the state. However, SFUSD leadership recognizes the importance of maximizing and leveraging all district assets for revenues that can aid the general fund as a sound business practice and as a potential way to offset the often erratic ebb and flow of state funding for education.

Therefore, District leadership determined that a new approach and strategy was required to more aggressively manage SFUSD's real estate assets. A "Real Estate Working Group" was established to take overall leadership in the area, including the Deputy Superintendent of Policy and Operations, the Chief Facilities Officer, General Counsel, Chief Financial Officer, a consultant Real Estate/property lease and transaction specialist

and several others to optimize the use of surplus and under-utilized real estate through its development or disposition within the overall fluid education needs of the District. This group meets regularly and jointly commissions studies, evaluates property transaction or lease proposals, negotiates pending transactions and makes all recommendations to the Board of Education.

This group has seen great success since its establishment 2 years ago. They concluded a successful $11.1 million dollar surplus property sale to San Francisco State University, are in the process of negotiating a long term lease for use of district property that will generate millions of dollars of additional revenue to the district general fund over the next 10-12 years and are concluding a multi-property sale and exchange with the Mayor's Office of Housing which will provide benefits to both the District and the City. The District believes that this more aggressive property and asset management and leadership strategy has been highly effective in producing positive results that are also sensitive to the overall District academic strategic plan and project growth expectations.

5. **Given the location of 135 Van Ness Avenue and 170 Fell Street in the heart of the City's cultural center, and the historic nature of the structures, their current status is far from the highest and best use of these unique properties. Plans by SFUSD to convert the properties into the School of the Arts have not moved forward because of, among other reasons, a lack of needed funding. Yet, at the time, and now, SFUSD owned and continues to own, sufficient surplus and underutilized property that if sold could fund the entire project. Other alternative and better uses of this complex may be possible.**

Response: Disagree.

The District remains fully committed to the long term strategy of relocating the Ruth Asawa School of the Arts to the historic 135 Van Ness block in the heart San Francisco's Civic Center. The Superintendent has included this strategy as an integral part of several major academic initiatives launched throughout the District that include the arts, science, technology, engineering and math. The challenges of bringing the relocation of SOTA to Civic Center are many and complex. Current FY2013 cost projections and analysis to renovate the 135 Van Ness block for the School of the Arts are $235 million, not including the relocation of the current district administrative staff housed at the 135 Van Ness site. However, this cost remains similar to the cost of other public performing arts high schools across the nation and is less than the $350 million for the new school of the arts in Los Angeles.

The civil grand jury report suggests that the District could fund the entire $235 million project costs by selling surplus and underutilized properties. As an example it is suggested that selling the current Ruth Asawa School of the Arts at the McAteer Campus would be a significant start. The District's real estate consultant CBRE, Inc. has estimated that the value of the McAteer site with "highest and best use" development would be approximately $25 million. The majority of the District's underutilized properties are not the properties of highest value. To even come close to the target cost

for the SOTA renovation the District would have to sell Mission High School, Balboa High School, Galileo High School, Burton High School, Lowell High School, Washington High School and three other of its largest and most valuable properties to raise the required funding. The District believes and remains committed to the strategy that a combination of State and local bond funding together with public and private partnerships and a significant and large private capital campaign from persons committed to the arts and arts education can still provide the funding for that exciting project.

**RECCOMENDATIONS**

For each Recommendation made by the Civil Grand Jury, the responding party must provide one of the four responses:

Response One: the recommendation has been implemented, with a summary explanation of how it was implemented;

Response Two: the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation;

Response Three: the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of the report); or

Response Four: the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is.

**Recommendation 1.2: The online database of all properties owned by SFUSD and all City Departments, including revenue-generating enterprise departments, needs to include information required by Sec. 23A of the Administrative Code.**

The recommendation will not be implemented because it is not warranted or reasonable. The "Surplus City Property Ordinance" does not apply to school district properties. The definitions in the ordinance state that the term "'Property' shall mean any real property owned by the City and County of San Francisco, excluding land and buildings reserved for open space or parks purposes, or any land dedicated for public right-of-way purposes, or any land used or reserved for transit lines, or public utility rights-of-way, or any publicly dedicated streets or rights-of-way. 'Property' shall not include any real property owned by or on behalf of the San Francisco Unified School District." (SF Admin. Code 23.A.4 (f) (Emphasis added)).

The San Francisco Unified School District maintains a comprehensive list of all properties owned, leased or occupied by the District. This comprehensive list is organized by assessor's parcel number and includes property information, including but not limited to, the property by address, name, use, lot area, building area, number of classrooms, programs and whether the property is leased to non-SFUSD users or tenants. In 2007, 2009 and 2010 this comprehensive property list, with yearly updates, was included as an integral part of the District's published and Board of Education approved "10 Year Capital Plan" This was a public document and was posted on the District Website accessible to all members of the public who are interested. The property inventory is updated regularly to reflect the current status and use of all District owned and leased properties and the District anticipates an update to the 10 Year Capital Plan within the next year.

**Recommendation 2: The City and the SFUSD should activate their respective Surplus Property Advisory Committees because the meetings of these committees provide a public forum in which to discuss best uses of publicly-owned real estate and each committee should be charged with monitoring uses of public property and making sure that there is ongoing accountability with respect to surplus and underutilized properties.**

Response: The recommendation will not be implemented because it is not warranted or reasonable at this time. There currently are no additional properties "not being used for educational purposes" within the District that should be reclassified or declared surplus under the conditions of the Education Code to be designated surplus and subject to possible sale. However, the District recognizes that should conditions change and the reactivation of this committee becomes necessary, the District will do so.

**Recommendation 4: The Board of Supervisors and the SF Board of Education should each adopt rules which limit the length of time property may remain on their respective surplus list without action and which address consequences for such inaction.**

Response: The recommendation will not be implemented because it is not warranted or reasonable. The District will comply with Education Code requirements for declaring properties as surplus and for disposing of surplus properties. The educational program and administrative facility requirements for the District are fluid and the District must remain flexible with regard to the disposition and use of school sites and properties in order to respond to these changing needs, as explained in response to Finding #3 above.

**Recommendation 5.1: The SFUSD needs to designate someone, who is given appropriate authority, whose time and energy is devoted solely to optimizing use of surplus and under-utilized real estate through its development or disposition. That person should work with the City's Capital Planning Policy Committee and Surplus Property Advisory Committee to incorporate surplus and underutilized property into the SFUSD's and City's 10-year rolling Capital Plans.**

Response: The recommendation will not be implemented because it is not warranted or reasonable. Previously, the District had a full time Director of Real Estate position. That position was eliminated two years ago due to District-wide budget reductions and as District leadership determined that a restructuring and more effective strategy was required in the District's approach to their property assets and management of those assets.

Therefore, a "Real Estate Working Group" was established, including the Chief Facilities Officer, Deputy Superintendent of Policy and Operations, General Counsel, Chief Financial Officer, a consultant Real Estate/property lease and transaction specialist and several others to optimize the use of surplus and under-utilized real estate through its development or disposition within the overall fluid education needs of the District. This group meets regularly and jointly commissions studies, evaluates property transaction or lease proposals, negotiates pending transactions and makes all recommendations to the Board of Education. This group has had great success since its establishment 2 years ago. They concluded a successful $11.1 million dollar surplus property sale to San Francisco State University, are in process of negotiating a

long term lease for use of district property that will generate millions of dollars of additional revenue to the district general fund over the next 10-12 years and are in process of concluding a multi-property sale and exchange with the Mayor's Office of Housing. The District believes that this leadership strategy has been highly effective in producing positive results that are also sensitive to the overall District academic strategic plan and project growth expectations.

**Recommendation 6: The entire complex of historic buildings at 135 Van Ness / 170 Fell Street, including Nourse Auditorium, should be put to productive use by, for example, converting the complex into the School for the Arts.**

Response: The recommendation has been implemented, but still requires significant further work and capital development. The Superintendent has rolled out a number of District strategic initiatives that are critical to closing the achievement gap and raising the education bar to the highest levels possible. Paramount in those initiatives are programs for STEM (Science, Technology, Engineering and Math) and the Arts, of which a key component is the relocation of the Ruth Asawa School of the Arts from the McAteer Campus to the 135 Van Ness block, located in the heart of the San Francisco arts civic center district. Currently, the District has retained a new architect to refresh the program and design for the school and that work is now in progress. The District recognizes that significant obstacles still remain to fund the now estimated $235 million project design and construction costs, but with the improving economy and significant private sector benefactors for the arts, the District is now more optimistic that a significant private capital campaign, coupled with other funding sources can successfully be put together to bring this long anticipated project to reality.

BOARD of SUPERVISORS

City Hall
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: June 13, 2013

TO: Members of the Board of Supervisors

FROM: Angela Calvillo, Clerk of the Board

SUBJECT: 2012-2013 Civil Grand Jury Report

We are in receipt of the San Francisco Civil Grand Jury report released Thursday, June 13, 2013, entitled: **Optimizing the Use of Publicly - Owned Real Estate: Achieving Transparency, Momentum and Accountability**. (Attached)

Pursuant to California Penal Code, Sections 933 and 933.05, the Board must:

1. Respond to the report within 90 days of receipt, or no later than September 12, 2013.
2. For each finding:
   - agree with the finding; or
   - disagree with the finding, wholly or partially, and explain why.
3. For each recommendation indicate:
   - when the recommendation was implemented;
   - when the recommendation will be implemented;
   - that the recommendation requires further analysis; or
   - that the recommendation will not be implemented, and explain why.

Pursuant to Administrative Code, Section 2.10, in coordination with the Committee Chair, the Clerk will schedule a public hearing before the Government Audit and Oversight Committee to allow the Board the necessary time to review and formally respond to the findings and recommendations.

The Office of the Budget and Legislative Analyst will prepare a resolution, outlining the findings and recommendations for the Committee's consideration, to be heard at the same time as the hearing on the report.

Attachment

c: Honorable Cynthia Ming-mei Lee, Presiding Judge (w/o attachment)
Martha Mangold, Foreperson, 2012-2013 San Francisco Civil Grand Jury (w/o attachment)
Mayor's Office
Ben Rosenfield, Controller
Jon Givner, Deputy City Attorney (w/o attachment)
Rick Caldeira, Legislative Deputy
Debra Newman, Office of the Budget and Legislative Analyst
Severin Campbell, Office of the Budget and Legislative Analyst

BOS-11 (sep. delivery)
cc: COB, Leg Dep, GAO Clerk, Cpage
Orig: Leg Clerk

# SUPERIOR COURT OF CALIFORNIA
## COUNTY OF SAN FRANCISCO
## CIVIL GRAND JURY

June 11, 2013

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



Dear Ms. Calvillo,

The 2012 – 2013 Civil Grand Jury will release its report entitled, "*Optimizing the Use of Publicly-Owned Real Estate: Achieving Transparency, Momentum and Accountability*," to the public on June 13, 2013. Enclosed is an advance copy of this report. Please note that by order of the Presiding Judge of the Superior Court, Hon. Cynthia Ming-mei Lee, this report is to be kept confidential until the date of release.

California Penal Code §933.5 requires a response to the Presiding Judge no later than September 12, 2013. For each finding in the report, you must either (1) agree with the finding; or (2) disagree with it, wholly or partially, and explain why.

Further, as to each recommendation, your response must either indicate:
1) That the recommendation has been implemented, with a summary of how it was implemented;
2) That the recommendation has not been, but will be, implemented in the future, with a timeframe for implementation;
3) That the recommendation requires further analysis, with an explanation of the scope of that analysis and a timeframe for discussion, not more than six months from the release of the report; or
4) That the recommendation will not be implemented because it is not warranted or reasonable, with an explanation. (California Penal Code § 933 and §933.05)

Please provide your response to Presiding Judge Lee at the address below.

Very truly yours,

Martha M. Mangold

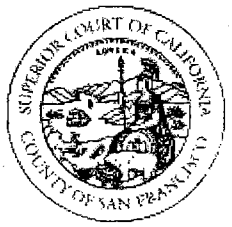
Martha M. Mangold, Foreperson
2012 – 2013 Civil Grand Jury

400 McAllister Street, Room 008
San Francisco, CA 94102-4512
Phone: 415-551-3605

# Optimizing the Use of Publicly-Owned Real Estate

***Achieving Transparency, Momentum and Accountability***

May 2013




City and County of San Francisco
Civil Grand Jury, 2012-2013

MEMBERS OF THE 2012-2013
CIVIL GRAND JURY
CITY AND COUNTY OF SAN FRANCISCO

Martha Mangold, Foreperson
Fred A. Rodríguez, Foreperson Pro Tem
Leslie Finlev, Recording Secretary
Maria Martinez, Corresponding Secretary

Jon Anderson
Jennifer Angelo
Jeanne Barr
Paul Cheng
Jerry Dratler
Hülda E. Garfolo
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Shelly Hing
Corinna Kaarlela
Daniel Kreps
Hilary Pedigo
Theresa Sabella
Suzanne Tucker
Thomas Walker
Stuart Williams

## THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name. Disclosure of information about individuals interviewed by the jury is prohibited. California Penal Code, section 929

## STATE LAW REQUIREMENT
California Penal Code, section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days, as specified.

A copy must be sent to the Board of Supervisors. All responses are made available to the public.

For each finding the response must:

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

As to each recommendation the responding party must 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.

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## Issue

The City and County of San Francisco owns 6,000 acres of land -- about 20 percent of all land within San Francisco -- and 92,000 acres outside the County. The San Francisco Unified School District owns 157 properties within the County that have a capacity for about 90,000 students, yet currently serves only about 56,000 students in its schools and in charter schools. In 2007, the Board of Education declared 10 properties surplus and categorized an additional 20 percent of its real estate as surplus. This report looks at five City properties and four School District properties that have been declared surplus or have been underutilized for years, in some cases for decades, and makes recommendations for better identifying and managing public surplus properties.

Our concern in this report is whether use of publicly-owned real estate within the San Francisco is being optimized. Put to productive use, surplus and underutilized real estate owned by various City and County agencies would provide space for housing or for commercial, cultural, and/or civic activities and would increase the City's tax base. Productive use of our real estate would also reduce the need to go to voters for approval of bond measures or parcel taxes to fund projects that could be funded wholly or partly through better management or disposition of publicly-owned surplus and underutilized properties.

## Summary

A 2009 Civil Grand Jury report on San Francisco Unified School District (SFUSD) surplus property,[1] a 2010 report on SFUSD property by the Center for Cities and Schools of the University of California, Berkeley,[2] and a 2012 report by the . San Francisco Budget and Legislative Analyst[3] to Supervisor Mark Farrell evaluating potential surplus and under-utilized property owned by the departments of the City of San Francisco all conclude that publicly-owned real estate within San Francisco is not being optimized. Our current investigation supports these conclusions.

Nonetheless, SFUSD and City departments periodically seek to raise money through bond measures and parcel taxes to fund various projects that can be paid for in whole, or in part, through better management or disposition of surplus and underutilized properties.

This report concludes that better management of publicly-owned properties requires more transparency regarding the properties and their uses to make sure that momentum toward better utilization or repurposing of the properties does not wane. We also make recommendations for sustaining accountability on the use of surplus property and better utilization of under-used public property.

**Our recommendations are as follows:**

1. The online database of all properties owned by SFUSD and all City departments, including revenue-generating enterprise departments (e.g. PUC, MTA), should include the information required by Sec. 23A.5 of the Administrative Code.[4]

2. The Department of Technology and the Planning Department should work with and provide database access to all City departments to enable them to maintain the information on their properties set out in recommendation 1 above, based on the model of the existing San Francisco Property Information Map developed by the Planning Department.

3. a. City departments, commissions and agencies should be required to maintain their departmental property inventory, which appears in the Real Estate Department Map of Real Property and Property Book.
   b. The Director of Real Estate should be required to review the list annually to confirm that all departments have reported all of their properties, including surplus and underutilized properties, in accordance with the requirements of Chapter 23A of the Administrative Code.
   c. The City Administrator should report annually to the Board of Supervisors regarding the City's "Real Property Assets" as defined in Chapter 23A.

4. The City and the SFUSD should activate their respective surplus property advisory committees.

5. The Board of Supervisors should amend Chapter 23A of the Administrative Code to include an incentive for City departments to identify and dispose of surplus and underutilized properties and to broaden the purposes for which surplus and underutilized properties may be used.

6. The City and SFUSD should adopt rules limiting the length of time property may remain on their respective surplus list without action.

7. The SFUSD should designate someone who is given appropriate authority and whose time and energy is devoted to optimizing the use of surplus and under-utilized real estate through its development or disposition. That person should work with the Capital Planning Policy Committee and Surplus Property Advisory Committee to incorporate surplus and underutilized property into the SFUSD's 10-year rolling Capital Plan.

8. The Capital Planning Committee of the San Francisco Capital Planning Program should be responsible for overseeing the property list and clear plans for the disposition or repurposing of such properties should be incorporated into the 10-year rolling capital plan of the Capital Planning Program.

9. The entire complex of historic buildings at 135 Van Ness / 170 Fell Street, including Nourse Auditorium, should be put to long-term productive use consistent with the policies and objectives of the Civic Center Master Plan by, for example, converting the complex into the School for the Arts.

# Investigation

## *1. City and County of San Francisco*

### a. Background

At the request of Supervisor Mark Farrell, the Budget and Legislative Analyst's Office prepared a report[5] issued on March 23, 2012 on the inventory of City-owned land that, in its opinion, "has the potential to be declared surplus property...." The City and County of San Francisco owns about 2,000 parcels of land on about 6,000 acres, which is about 20 percent of the total land in the County. Additionally, the City owns 92,000 acres outside the County limits. However, due to a lack of compliance with statutory reporting requirements, the Budget and Legislative Analyst's inquiry involved only 597 properties owned by nine of 11 City departments and agencies.

According to the Budget and Legislative Analyst's report, at least 26 of the 597 properties reviewed "should be considered by the Board of Supervisors as surplus or underutilized property that could potentially be redirected to other City purposes or sold or leased." The report further noted the likelihood that "additional properties under the jurisdiction of the Port and Public Utilities Commission may potentially be classified as surplus or underutilized."

The San Francisco City and County Administrative Code requires that all departments and agencies provide an inventory of properties under their jurisdiction to the Director of Property and the City Administrator and identify properties they declare surplus or underutilized. The Director of Property is further required to make recommendations in an annual report to the Mayor and the Director of Administrative Services regarding the advantageous use, disposition or sale of real property not in use. This report has not been produced since 2007.

We agree with the findings of the Budget and Legislative Analyst that the citizens of San Francisco deserve more transparency with respect to publicly-owned real estate. We want to acknowledge that during the course of our investigation the Real Estate Division, which the Director of Property oversees, has taken great steps toward improving its database of all City real property but more needs to be done. Public access to a more detailed property database, including reporting from every department designating surplus and underutilized properties will only further improve the database. We agree with the report of the Budget and Legislative Analyst that the existing database lacks pertinent information needed to make informed decisions. Without such information, the

Directors of Real Estate and Capital Planning are unable to make informed decisions on the disposition of the City's real estate.

The Budget and Legislative Analyst's report concludes that "The City lacks centralized oversight and controls over its properties." It further notes that "the Director of Property is dependent on receiving accurate and timely reports about their properties from each department, but has no authority over the departments to ensure receipt of such information." In reviewing City properties for its analysis, the Budget and Legislative Analyst found numerous errors and misclassifications

## b. City Properties

The cost of underutilization of City property to the taxpayers of San Francisco is difficult to quantify. Our investigation has focused on several representative properties to illustrate factors contributing to the City's failure to maximize use of its real property assets, and on recommendations for improving the process to better utilize City property.

### *i. SFMTA's Kirkland Yard*

The Kirkland Yard site at the southwest corner of Beach and Stockton Streets, currently owned by the San Francisco Municipal Transportation Agency (SFMTA), was originally part of San Francisco Bay that was filled in 1886. The 2.6-acre site was in private hands until 1942 when it was acquired by the Department of War. San Francisco obtained the property from the Department of War in 1947, and in 1950 it began its service as a bus storage yard. The site is 412.5 feet by 275 feet, encompassing 113,437 square feet. It is designated "public" by the Planning Department, is within a 40-foot height district and is subject to the Northeastern Waterfront Area Plan of the City's General Plan.

The Municipal Railway's diesel bus operation at the Kirkland Yard is to be relocated to a new, larger facility at Cesar Chavez Street and I-280, which was originally scheduled for completion in 2008. Phase 1 of the Islais Creek Motor Coach Operations and Maintenance Facility, was completed in March of this year. Final completion is anticipated sometime in 2014. The relocation of Kirkland operations to Islais Creek would allow the Kirkland site to be redeveloped to a new land use that is more compatible with the surrounding neighborhood. The Kirkland Yard property is a valuable real estate asset. At one time it was the intention of the San Francisco Municipal Transportation Agency (SFMTA) Board, which oversees Muni, to obtain value from the site so that other transit capital financing needs could be met, including an estimated $73 million price tag for the Islais Creek facility.

According to a news report in February of 2009, the SFMTA "had plans to replace Kirkland with a bigger, state-of-the-art motor coach facility since the early 80s."[6] By March 2006, the SFMTA staff and an outside consultant were engaged in extensive community outreach with regard to a low/moderate housing and commercial property

development project at the Kirkland site and had retained an architect to develop schematics for the project. In its application for a $35 million grant from the federal government to finance the construction of the Islais Creek Motor Coach Operations and Maintenance Facility,[7] the SFMTA stated that this new facility "will replace the existing Kirkland Division motor coach facility... [which] has not been renovated or modernized since it was built 60 years ago and is too small, overcrowded and out-of-date to properly maintain SFMTA's growing fleet of motor coaches, including hybrid vehicles."

A July 14, 2010 article in the *San Francisco Examiner* by Will Reisman reported that SFMTA was in negotiations to sell the Kirkland property to the Mayor's Office of Housing for the development of affordable housing at the site. In additional SFMTA funding requests as late as 2011, Islais Creek was still represented as a replacement for the Kirkland motor coach operating facility slated for redevelopment.

Fast-forwarding to 2013, we found that the Kirkland Yard reemerges as an essential element in SFMTA current real estate portfolio in the recently released *The SFMTA Real Estate and Facilities Vision for the 21st Century* (January 15, 2013). It is questionable whether retaining an outdated, undersized motor coach operating facility in such a high profile area of the City is the best use for this valuable property. We believe this is a prime example of sub-optimal use of City real estate assets. On a positive note, however, same report proposes redevelopment of SFMTA's Potrero Hill and Presidio facilities to provide for additional uses that would generate significant revenue for SFMTA.

### *ii. The Fleishhacker Pool and Bathhouse*

The Fleishhacker Pool opened in April 1925 as a result of the efforts of Park Commissioner Herbert Fleishhacker, a wealthy businessman and philanthropist. Measuring 1,000 feet long and up to 150 feet wide with a capacity of 6.5 million gallons, the pool could accommodate 10,000 swimmers. The nearby bathhouse was a 280 feet by 50 feet structure designed by Clarence Ward, a leading San Francisco architect.

After the Fleishhacker Pool closed in 1971, the bathhouse still remained a viable property for use by San Francisco. In the early 1970s the building was used by the Recreation Center for the Handicapped (now the Janet Pomeroy Center), a pottery studio, and a children's craft camp. For the last 39 years, however, the pool house has been neglected and left to squatters. The interior was full of graffiti, wild animals and filth. On December 1, 2012, a fire destroyed the bathhouse. What was left of the structure had to be torn down before it collapsed.

For a decade, Woody LaBounty, director of the Western Neighborhoods Project (a nonprofit history center), tried to alert the public about the dilapidated condition of the bathhouse. LaBounty was quoted in a *San Francisco Examiner* article (12/5/12) as saying, "I think we lost the Fleishhacker Pool building years ago through years of neglect. And the fire was the last straw."

Years of neglect led to the loss of a great piece of San Francisco history. Sadly, this could have been prevented by better management of the City's real estate assets. Today the Recreation and Parks Department has plans to use the site as passive open space with some of the building's distinctive features (the green terracotta roof tiles, decorative embellishments, and the entranceway decorative cornice) as a monument to what was once a grand and famous attraction.

This loss should be a lesson learned: complete records of the real estate owned by the City and County of San Francisco should be reviewed regularly and decisions made timelier as to the uses of surplus and underutilized properties, especially dilapidated facilities like the Fleishhacker bathhouse.

### *iii. 155 – 165 Grove Street*

Other examples of surplus properties that have been neglected too long are the properties located at155-165 Grove Street in Civic Center, just across the street from City Hall. The 155 Grove building, a 4,000 square foot unreinforced masonry facility, was built in 1914 and housed Harry's Auto Repair until 1937. In 1967, the City acquired 155 Grove Street, as well as 240 Van Ness, around the corner, for "expansion of the Civic Center," at a cost of $570,000.[8] At the end of the 1960s, the San Francisco Arts Commission acquired the space for a municipal gallery. The Arts Commission enjoyed years of successful exhibitions until the 1989 Loma Prieta earthquake rendered the building unsafe. Since then, the condemned building has been used only for front window art installations. This is a non-contributory building to the Civic Center Historic District, meaning that it is deemed to have neither historic nor architectural features that qualify it as contributing toward the overall historic district.

The property at 165 Grove is now simply a vacant lot. Previously it was used as the Arts Commission offices until a fire in November 1980 caused severe damage to the building and it was demolished. From 1986 until 2001, the lot was used for exhibitions, later discontinued, due to budget constraints. For over a decade now, it has been under-utilized. Recent uses include a "Beaded Quilt" mural by the LightHouse community, which occupies a building around the corner that is contiguous to the City-owned buildings of this site area. The lot, at that time, was called the "Please Touch Community Garden." Today, the below-grade vacant lot, surrounded by cyclone fencing, is used as a community vegetable and flower garden.

In November of 1987, Mayor Dianne Feinstein initiated a Civic Center Proposal.[9] Her vision, in Part 5, Reserve City Parcels in Civic Center Area, suggested: "City-owned properties on Grove Street and McAllister Street adjacent to City Hall and the steam plant site next to the Main Library should be reserved for future City uses, possibly with interim long-term leases to the private sector.... Any development would need to conform to strict design and use requirements. Should it turn out to be preferable to purchasing an existing building, these properties could be used for construction of City office buildings."

In November 1994 a bond measure including funds for renovating 155 Grove Street failed to pass. In 2000, supporters of the Arts Commission gallery met regularly to discuss the future of this site and architectural renderings were prepared. In 2001, plans for a new building encompassing both 155 and 165 Grove were prepared at the request of Mayor Willie Brown.[10] An environmental review was started in 2001 by the Planning Department, but it suffered from lack of funds and was cancelled. Other development ideas have been explored but no firm financial project has ever been realized.

Supervisor Chris Daly sponsored a bill in May 2004 placing 155 Grove under the authority of the Mayor's Office of Housing (MOH). The bill passed and the property was transferred to the MOH where it remains today.

On December 20, 2004, the Citizens Advisory Committee of the Surplus City Property Program met and discussed these properties.[11] According to the minutes, Joan McNamara, Project Manager from the Mayor's Office of Housing, said the two parcels total about 8,000 square feet and are zoned C3G - Downtown General Commercial; that "...the parcels are subject to the Civic Center Master Plan, which includes...maintaining the Civic Center area as a place of cultural and governmental business..., and ...retaining housing that is already located in the area." Supervisor Daly stated "...this was the second meeting in which the committee has been informed by other city departments that they have plans for use of a property that has been declared surplus by that department." He inquired as to why other departments are coming to the committee now, when the Board of Supervisors has already acted to move a parcel identified as surplus property to MOH's jurisdiction. The departments should have informed the City Administrator, who compiled the surplus properties list, that their property is not surplus before it went to the Board. He suggested that when the list is updated for the next calendar year, there should be more clarification on the definition of surplus, vacant or underutilized sites.

According to the same minutes, Richard Newirth, Director of the Arts Commission, said that these lots had always been listed under the Real Estate Division's jurisdiction, that the parcels had been included on the Surplus Properties List and transferred to MOH, and that the Arts Commission had plans for "rehabilitation of the existing building with new office space as well as new gallery space, and outdoor display/exhibit space on that adjacent vacant lot." He also indicated that the Arts Commission planned to raise $3 million for this plan over the next 18 months. That was more than eight years ago!

Both 155 and 165 Grove are located in the Civic Center Historic District and must adhere to the Civic Center Urban Design Guidelines. Clearly these properties in a prime location have been underutilized for too long.

The 240 Van Ness Avenue property, around the corner, is now under the jurisdiction the Real Estate Division. If these three properties were assembled with the intervening non-historic properties now held privately, a major parcel would become available for development conforming to the Civic Center Plan.

### *iv. The Fire Chief's Residence*

According to the Real Estate Division website, the San Francisco Fire Department (SFFD) has been successful over the years at selling its underutilized properties, generating millions of dollars for the City. With that said, the Legislative Analyst's 2012 Report still identifies a few properties that can be better utilized by the Department. For example, the report identifies the Fire Chief Residence located at 870 Bush Street as an underutilized property. This is not new information. Much has been written about the use and misuse of the residence in the past. The property is a local historic landmark that currently does not house the Fire Chief, but is used for staff meetings and serves as the Department's back-up Emergency Operations Center. Satellite, telephone and radio communications systems are located there to assist with management should there be a significant event. This is a better utilization of the property than in the past, but further evaluation of the asset is in order.

Amending the Surplus Property Ordinance, discussed below, would allow the Fire Department to evaluate whether this is the proper location for these Fire Department functions, and whether the residence should be sold, with the proceeds used for a better site or building to meet more of SFFD needs. For example, SFFD is also in need of a new Emergency Medical Services (EMS) Logistics Center and a facility to house the Bureau of Equipment. According to Fire Department sources, an EMS Logistics Center would house the Department's ambulance fleet along with offices and personnel to stock ambulances. The Bureau of Equipment building would need to house a shop area large enough for work on smaller apparatus and equipment as well as the required personnel. These two facilities are crucial to the operational infrastructure of the Department. Further, Department sources have confirmed that the current locations have significant seismic issues and are lacking space for both equipment and personnel to meet the current needs of the Department.

### *v. Treasure Island Training Center*

Another example of a possible SFFD future need is the Treasure Island Training Facility. On December 19, 1997, the City and County of San Francisco entered into a lease agreement with the U.S. government, which allowed SFFD to utilize the state-of-the-art Navy Firefighting Training Center located on Treasure Island. This facility has given SFFD the ability to become a regional center capable of training structural, marine and aircraft rescue firefighters, utilizing computer generated live-fire training scenarios. Several training classes given to other agencies utilizing the live-fire marine and flight deck capabilities have already proven its revenue-generating potential.

The SFFD currently leases this facility from the Treasure Island Development Authority, but it is anticipated that once development of the island begins, the facility will need to be relocated at a great expense to the City. Leaders within the department have confirmed that the SFFD will need to find an area of land to build a new training facility to make up for the anticipated loss of the Treasure Island facility. Given uncertainty in recent news reports regarding the Treasure Island development project going forward, we believe the

City should consider renegotiating the development agreement to retain this valuable asset.

### c. The Surplus Property Ordinance

The above examples illustrate that the mechanisms used by departments and agencies of the City and County of San Francisco for identifying and repurposing publicly-owned surplus and underutilized properties do not appear to be working well. With some modifications these mechanisms can be made to work. Among them is the Surplus City Property Ordinance codified at Chapter 23A of the San Francisco Administrative Code passed in 2002.[12] It was amended in 2004, when a new Sec. 23A.9 was added. This ordinance recognizes the need to also comply with federal and state laws concerning the disposition of surplus property.[13]

#### *i. The Purpose of the Ordinance*

The purposes of the Ordinance are stated in Sec. 23A.3 as:

> "(a) Identify and use surplus City-owned property for the purpose of providing housing, shelter, and other services…
> (b) Help relieve the crisis of homelessness…
> (c) Provide low or no cost facilities for agencies serving homeless people…
> (d) Provide 'sweat-equity' opportunities for homeless people… [and]
> (e) Create a centralized mechanism to responsibly dispose of surplus City property in a manner…consistent with this Chapter."

#### *ii. Priorities for Disposition of Properties*

The priorities for disposition of surplus property are set out in Sec. 23A.10 in order of priority as follows:

> "(i) First, for the development of affordable housing for people who are Homeless and persons earning less than 20 % of the Area Median income…
> (ii) Second, for other services for people who are Homeless or for non-profit agencies serving people who are Homeless…
> (iii) Third, for the development of affordable housing for persons earning no more than 60 % of the Area Median Income…provided that the housing shall remain affordable for the useful life of the Property."

Under the Ordinance, only after it has been determined that these affordable housing-related priorities are not possible may the property be disposed of through the general procedures set out in San Francisco Administrative Code[14] and other applicable laws.

The mandatory priorities of the San Francisco Surplus City Property Ordinance for disposition of surplus property are more restrictive than the affordable housing considerations in State statutes.

### *iii. Actions Stipulated by the Ordinance*

The Ordinance sets out duties to be accomplished annually by City departments, commissions, and officials and establishes a Surplus Property Citizens' Advisory Committee. [15] These duties include:

- The development and transmittal of a listing of all City real property (including street address and Assessor's block and lot number, a general description including the current use and any planned use within the next fiscal year, general description of structures, whether the property is vacant or scheduled to be vacant or contains vacant structures, and a general summary of restrictions upon the use or disposition of the Property).[16]
- Identification of surplus or underutilized City property.[17]
- Evaluation or support of surplus or underutilized City property for development as affordable housing.[18]
- For property not usable for these purposes, retaining jurisdiction over the property or disposing of it.[19]

### *iv. Development Requirements*

Development of surplus property under the Ordinance is carefully defined:

- Each year, the Executive Director of the Mayor's Office of Housing (MOH) shall solicit applications from non-profit agencies serving the homeless to lease or acquire property listed as surplus for use in assisting the homeless[20] in accordance with the priorities of the Ordinance.[21]
- If no acceptable applications are received, then the Executive Director may solicit applications for the development of affordable housing other than housing for the homeless,[22] provided that the Executive Director first obtains the agreement of the Surplus Property Citizens' Advisory Committee. [23]
- If no acceptable applications from developers are received jurisdiction over the property may be transferred to another city department or the property may be sold[24] in accordance with the requirements of Administrative Code 23.3, designating the net proceeds for the purpose of financing affordable housing in San Francisco.

### *v. The Functioning of the Ordinance in Practice*

The 2012 Budget and Legislative Analyst's Report observes that the processes of the Surplus City Property Ordinance are seldom used. Only two properties have been treated in accordance with the Ordinance since its enactment, and an additional 13 undeveloped

properties transferred to the MOH in 2004 remain undeveloped because they may not be suitable for housing.[25] According to MOH, the Surplus Property Citizens' Advisory Committee that reviewed these 15 properties has been inactive since April 29, 2008, when its last meeting was held. The Mayor did not replace committee members whose terms expired.

The same report notes that the Surplus Property Report required by the Ordinance has not been prepared since 2007. Among the reasons offered by the report as to why the ordinance is seldom used and is not functioning as intended is that the City "lacks centralized oversight and controls over its properties."[26]

We are in agreement with the findings of the Budget and Legislative Analyst. Given how infrequently the Surplus City Property Ordinance has been used and that, since 2007, no new Surplus Property Report has been generated, we find that the Ordinance has not been effective in its purpose. The stringent constraints in the Ordinance on the usage of surplus property contribute to its disuse. We find that the ordinance has become substantially dysfunctional:

- From the perspective of the department that might declare property surplus, the purposes for which surplus property or the proceeds from its sale may be used, once declared surplus, are too restrictive. This is so because the Ordinance is intended only to address housing for the homeless and not to optimize the use of publicly-owned property. In addition, the Ordinance gives the narrowly-constituted Citizens' Advisory Committee the authority to approve whether a private developer should be allowed to obtain and develop the property for other housing or additional purposes.
- When the Ordinance was adopted in 2002, the need for surplus property to address housing for the homeless, as well as for very low and low income housing[27] was greater than it appears to be today. The Jury was told by housing advocates that there appears to be an adequate inventory of non-publicly owned real estate available for these purposes. This conclusion is supported by the Budget and Legislative Analyst's report, "Performance Audit of San Francisco's Affordable Housing: Policies and Programs,"[28] showing satisfaction at high levels of goals and objectives for very vow and vow income housing, although not yet at 100 percent.
- The Ordinance does not provide any incentives to a City department, commission or agency to declare property as surplus or underutilized. Designation of property as surplus or underutilized would result in a loss of the value of the property to the transferring government entity. If the Ordinance is to be utilized going forward, the transferring entity should benefit directly from the transfer. The Ordinance should be amended to build in incentives to reward a City entity for disposing of surplus or underutilized property.

There is reason to believe that providing a benefit to a City department to transfer surplus property works. When the Fire Department transferred the property at 909 Tennessee Street in 2010-2011,[29] the Board of Supervisors approved the sale and allocated the net

proceeds between the Fire Department and General Fund for af-fordable housing even though all steps required by Chapter 23A were not taken. [30]

#### *vi. Improving the Results of the Ordinance*

The Ordinance is not intended to achieve the most efficient usage of government property. In the more than 10 years of its existence, the Budget Analyst's office can identify only two projects accomplished within the scope of the Ordinance. The disposition of the 909 Tennessee Street property demonstrates that important conveyances of surplus property need not be (and are not) handled under the Ordinance.

The San Francisco Surplus City Property Ordinance is, therefore, misnamed. Its purpose is solely to address homelessness and affordable housing. California state law already requires consideration of affordable housing as a factor in the disposition of surplus government property. [31] That does not mean that the mechanisms in the Ordinance for identifying surplus and underutilized City properties cannot be used to better manage the use and disposition of such property. The City would benefit from effective programs to identify, repurpose or dispose of surplus and unproductive property.

We recommend two changes to the Ordinance. First, expand the purposes for which the proceeds from the sale or better utilization of City property may be used, and second, allow the City agency transferring surplus property to benefit directly from the transfer.

### d. Best Practices in City Property Management

San Francisco needs a centralized, transparent location for all its property records so discussions may take place regarding optimal use of property. This Jury researched over a dozen cities across the United States in an attempt to define "best practices." A centralized city department that held all the data and provided analysis for disposition or change in use was by far the biggest reason for success. With a few changes to the current Administrative Code, incentives for departments and reporting compliance, we believe the City of San Francisco could be in the forefront as the model for analyzing, re-purposing, and disposing of surplus and underutilized real property.

#### *i. San Diego*

On January 31, 2007, Grubb & Ellis, a real estate company, provided San Diego with "Best Practices Methodology for Real Estate Assets Department." The document recommends ways for San Diego to streamline and focus on maximizing financial return on its real estate. It was determined that the existing model lacked the managerial and supervisory layer necessary to operate efficiently. For that reason, it was recommended that all departments should report on their real estate holdings to a single department, the Real Estate Assets Department, using improved technology, so that a review, evaluation, analysis, and request for action can be made. The document further states that a summary of the data including owner of the property, the status, purpose, physical

condition, physical location, and highest use of the asset should be in a format accessible and understandable to multiple parties. This overview of real estate should be undertaken regularly with annual approval of the plan by the City Council.

On December 18, 2012, the San Diego City Council passed the "Disposition of City-Owned Real Property" resolution to 1) establish a procedure by which unused and marginally used City-owned real estate is reviewed for its potential public use, and for designating unneeded parcels for lease or sale; 2) provide methodology for the sale or exchange of City-owned real estate; and 3) establish policies for the leasing of City-owned real property.

San Diego's Real Estate Assets Department is charged with annually preparing and presenting a portfolio management plan that includes a surplus property disposition plan. The Portfolio Management Plan includes an overall review of San Diego's real estate portfolio (or inventory), an operating plan for corporate property, a disposition plan for surplus property, market research to support anticipated transactions, and a request for authority to act within defined parameters (as described in the policy).

The major elements of the Portfolio Management Plan include:

- Property evaluation and characterization of real estate assets
- Strategy for City occupied real estate
- Investment portfolio plan (leases to for-profit tenants)
- Review of not-for-profit leases
- Disposition plan for surplus assets
- Business case development review to support proposed transactions
- Legal document development and review

The Mayor's staff then reviews the plan and offers selected properties to governmental agencies in general, and city departments in particular, before offering the real estate for general sale.

### *ii. Seattle*

The Seattle Finance and Administrative Services Department oversees the Real Estate Services Department. Real Estate Services provides centralized real estate services to city decision-makers, other city departments and the general public. It implements simple-to-complex real estate transactions to accomplish the City's goals. It is the central location for property acquisitions and dispositions, leasing, appraisals and management of the city-wide property database. This department is also instrumental in the development of city-wide real estate policy.

Seattle uses its "Procedures for the Evaluation of the Reuse and Disposal of the City's Real Property" dated June 29, 1998, and revised April 10, 2006, to manage reuse and disposal of its real estate. Each city department must classify the property under its

jurisdiction, review it regularly and report changes to Real Estate Services. All properties are in a central inventory administered by Real Estate Services. The Real Estate Oversight Committee (REOC) is made up of directors from various departments led by Real Estate Services. More complex decisions are made by the City Council. By the end of each calendar year, properties are classified for a strategic plan which is maintained by Real Estate Services and approved by REOC.

## 2. San Francisco Unified School District

### a. Background

The SFUSD is a state agency that operates public schools in the City and County of San Francisco. As of 2012, SFUSD had an enrollment of about 53,000 students, a $620 million unrestricted and restricted annual budget not including proceeds from general obligation bonds to fund capital improvements, 157 properties,[32] and employs about 7,400 teachers, paraprofessionals, and administrative staff (2013).[33] Properties owned by SFUSD also house 13 charter schools serving about 3,000 children. "The District currently maintains a property portfolio that has a student capacity for over 90,000 students." [34] In addition to buildings, SFUSD has 247 modular units located on its properties. The 2009 Capital Plan identified nine properties which the SFUSD deemed surplus.

A 2009 Civil Grand Jury report, *Use It or Lose It: A Report on the Surplus Real Property Owned by the San Francisco Unified School District,* concludes[35] that "the SFUSD remains uncommitted to implementing policies that would result in the proper stewardship of its real property holdings." Included in that year's Jury report was a reference to the SFUSD May 8, 2007 school board resolution approving two key findings and recommendations of its "District Advisory Committee on Surplus Space and Real Property":

1. That 10 specific SFUSD properties be declared surplus.
2. That in addition 20 percent of SFUSD's entire space and real property be categorized as surplus and made available through leases or to third parties for use. The twenty percent figure was to be re-evaluated every three years or upon a change in student enrollment of five percent or greater.

The 2009 Jury report also refers to a previous report issued by the 2007-08 Jury to the effect that "the City should devise a plan for reducing the number of SFUSD properties that were under-utilized." The SFUSD responded that it was SFUSD and not the City that has responsibility for stewardship over those properties and that steps were already being undertaken to determine how best to consolidate its schools.[36] Those steps may be referring in part to a report from CBRE Consulting issued in February 2009 titled: *San Francisco Unified School District (SFUSD) Evaluation of Potential Surplus Sites* that evaluated 11 properties the SFUSD identified for potential sale, exchange, or lease. The

report sets the aggregate value for 10 of the properties at $132 million. According to the report these properties would provide 871 units of housing and homes. Not included in the aggregate value is the value of SFUSD's leasehold of a parking lot adjacent to its administrative offices. As of 2008 the remaining lease term for the lot was 71 years, assuming all options to extend the lease term are exercised. This property is zoned for parking and building construction and has a zoning height limit of 65 feet.

Another step SFUSD took with respect to the use of its surplus property was to commission a report issued in September 2009 by Bay Area Economics titled: *Feasibility Study of Housing Development Opportunities.* The rationale for the study is set out in its introduction:

> The need for affordable housing for San Francisco Unified School District (SFUSD) teachers and staff is pressing; San Francisco is among the highest-cost housing markets in the nation, with a well-documented flight of its service workforce to distant, more affordable locations. Despite recent housing market downturns, the San Francisco housing market has experienced only limited declines, and remains out of reach for many working families.
>
> In response to the affordable housing challenges its employees face, SFUSD commissioned BAE, an urban and real estate consulting firm specializing in workforce housing, and Mercy Housing, a large non-profit housing developer, to conduct a feasibility analysis of affordable teacher housing in San Francisco.

BAE looked at nine surplus properties identified by SFUSD in the study. If rezoned for residential development, BAE concludes that these properties would have the potential to accommodate between 520 and 709 units of housing. Notwithstanding the report findings and recommendations, as of the date of this Jury report, SFUSD has not undertaken to develop any teacher housing (or other housing type). The BAE report confirms the potential of these properties for enhanced utilization for housing of some sort.

A third step taken by SFUSD to better utilize its properties is a 2010 report commissioned by the district. It was prepared by the Center for Cities and Schools of the University of California, Berkeley on "*San Francisco's Public School Facilities as Public Assets" A Shared Understanding and Policy Recommendations for the Community Use of Schools.*" [37] The report sought to inform a joint effort by SFUSD and the Department of Children, Youth and Their Families to improve policy and procedures relating to the use of SFUSD school facilities by community-based organizations. It found that many SFUSD school buildings and grounds are underutilized during the instructional day according to California Department of Education standards. The report also notes that there are 134 schools with about 7.5 million square feet of indoor space and about 5.5 million square feet outdoors (more than 126 acres). With current [2010] enrollment at more than 55,000 students from kindergarten through 12$^{th}$ grade, this means there is on average about 134 indoor square feet per student and 100 outdoor square feet per student in SFUSD during the instructional day. The California Department of

Education's recommended indoor space per student ranges from 63 square feet (elementary) to 95 square feet (high school).

The report found[38] that SFUSD was spending $28.74 per square foot per year on its facilities in 2009 and generating only $1 million to $1.5 million in annual facility use-permit revenue from 1999 to 2009. This means that it was recouping less than one percent (.7 percent) of its expenses from community use revenues. In 2011-12 SFUSD received $1.3 million in facility use-permit revenue. Among other things, the report recommended[39] that SFUSD adopt a four-tiered fee structure that aligns fees, users, and district goals. The tiers range from a low of "no charge" when the user offers programs and/or services closely aligned with district/school needs and goals, to high of a "fully-loaded" fee for private users.

We understand from discussions with staff in the Real Estate Department that SFUSD is in the process of implementing the recommendations contained in this 2010 report. Once the new proposed fee structure is drafted, the SFUSD intends to do outreach to users and the community for feedback before putting them into effect.

## b. School District Properties

In this report we discuss optimizing use of a number of the properties that the SFUSD has identified as surplus. Before doing so, we focus on optimizing use of a parcel of property owned by the SFUSD that it has not identified as surplus.

### *i. 135 Van Ness Avenue and 170 Fell Street*

The SFUSD does not identify 135 Van Ness Avenue (the former High School of Commerce) or 170 Fell Street (the former Newton Tharp School), as surplus or underutilized properties. Prior to and since the 1989 Loma Prieta earthquake, 135 Van Ness Avenue has been deemed seismically unsafe and 170 Fell Street has been boarded up, fenced-in, and abandoned, due to extensive damage caused to the building by the earthquake. These buildings near Civic Center, across the street from Louise Davies Symphony Hall, were the headquarters of the SFUSD for many years; Nourse Auditorium, an integral structure of the original High School of Commerce, which served as a civic performing venue prior to the earthquake, was also mothballed.

After the earthquake, SFUSD headquarters were moved to 555 Franklin Street. Today, 24 years later, 135 Van Ness Avenue provides SFUSD offices for the Real Estate, Business Services Department, and Government Services Departments. The 170 Fell Street building is still boarded up, fenced in, unoccupied and unsightly; its appearance was recently improved when the windows facing west were decorated with enlarged photos of jazz greats for the opening of the new SFJazz performance and teaching center directly across the street. Nourse Auditorium is now under a multi-year lease to City Arts and Lectures while the War Memorial Building, where the Herbst Theatre -- the venue for

City Arts and Lectures programs -- undergoes renovations. The lease required the tenant to undertake $1 million in capital improvements to the auditorium.
The 135 Van Ness Avenue, 170 Fell Street, and the Nourse Auditorium buildings are located on the same City Parcel, Number 0815 001, and are within the Civic Center Historic District. This district and adjacent areas are home to many of the City's cultural institutions: San Francisco Symphony, Opera and Ballet, Herbst Theatre, Asian Art Museum, Main Library, SF Jazz, Conservatory of Music, and New Conservatory Theatre.

Given the performing arts milieu in which these three buildings are located, for many years there have been efforts to create a school of the arts campus at this site. We describe these efforts below. The move of the Ruth Asawa School of the Arts (SOTA) to Parcel 0815 001 is an acknowledged, feasible option for optimizing the use of these properties by SFUSD – but it is not the only one. In this report, we are not specifically advocating for the move of SOTA to Parcel 0815 001. We present it as a viable option that serves SFUSD and the City of San Francisco as a whole. These properties should not remain boarded up and underutilized. The move of SOTA to Parcel 0815 001would free up the McAteer campus, which could then be used for teacher, affordable or market-rate housing, or a combination thereof, or for other uses that would generate taxes for the City, money for SFUSD capital projects and/or income for the district.

In September 2007, the Legislative Analyst issued a report[40] on "School of the Arts Civic Center Campus" to Bevan Dufty, Chair of the City and School District Select Committee on efforts to move SOTA to Parcel 0815 001 and to identify similar efforts in other jurisdictions (the "2007 LA Report"). Moving SOTA to this location is consistent with the area's focus on the arts and will facilitate collaboration between the school and nearby arts organizations. Further, "Locating SOTA on the site would communicate the value the City and district place on the arts and arts education."[41]

After setting out the history of San Francisco's SOTA, the report describes the programs at five high schools in other jurisdictions that offer curricula similar to those of SOTA. These five schools "were recognized by the Doris Duke Charitable Foundation in 2001 for excellence among public performing arts high schools" and are located in Baltimore, Cleveland, New York, Los Angeles and Miami. The report notes that most of the programs "are situated near major performing arts venues, which are often adjacent to civic centers. Many of the schools are also situated in facilities that were constructed or significantly renovated [to] accommodate an arts education program." The Los Angeles High School for the Visual and Performing Arts was at that time under construction as a magnet high school to be located near the Music Center, the Disney Concert Hall, and the Museum of Contemporary Art and was slated to cost $238 million.

In 1994, the San Francisco Planning Department issued the Civic Area Plan,[42] which included an arts high school as a possible contributor to the Civic Center Area. *Id.* The Civic Center Plan includes these provisions which are pertinent to the use of 135 Van Ness, 170 Fell and the Nourse Auditorium:

- Maintain and reinforce the Civic Center as the symbolic and ceremonial focus of community government and culture.
- Those City functions which do not involve significant public contact or do not involve substantial interaction with other governmental units may be inappropriately located in the Civic Center.

The 2007 LA Report notes that the following year, six years after the Loma Prieta earthquake, SFUSD engaged an architectural firm to design renovations to 135 Van Ness Avenue and 170 Fell Street to make them seismically safe. That engagement did not include reconstruction of the buildings for SOTA. Construction documents were not completed because of inadequate funding for the renovation. Ten years later, and 16 years after the Loma Prieta earthquake, the successor architectural firm, Chong Partners, was hired "to prepare a new school program and design/construction cost model to reflect an updated vision for SOTA. The firm developed a specific room-by-room space utilization plan and several conceptual design models identifying how 135 Van Ness Avenue and 170 Fell Street could be renovated to accommodate SOTA's specific needs, especially in the areas of theater, dance, choral, music and the visual arts." *Id.*

The schemes of the Conceptual Plan and Cost Model prepared by Chong Partners Architecture, dated May 5, 2006, are included in the Appendix to this report.

In the years between the two engagements of the Chong firm by SFUSD, the voters of San Francisco passed bond measures that included some funding for the relocation of SOTA to Civic Center. The 2003 Proposition A bond measure included $15 million for rehabilitating 135 Van Ness Avenue for SOTA. These funds remain available and cannot be used for another project or site. The 2006 Proposition A bond measure included another $15 million for renovating or constructing a facility for SOTA that is not tied to 135 Van Ness. All or a portion of the 2006 monies may have been used on the SOTA McAteer site. In addition, the 2007 LA Report indicates at page 11 that SFUSD had set aside $10.3 million "in a designated fund for renovation of 135 Van Ness Avenue and 170 Fell Street related to damage from the 1989 Loma Prieta earthquake." Another $39 million in new construction funding under the California Department of General Services School Facility Program might also be available according to the 2007 LA Report, as well as a portion of the 2004 Public Education Enrichment Fund, Proposition H. This fund was estimated to total $60 million for FY 2009-10 and would require a determination that it could be used for SOTA.

The Chong plans set out two options for the site. The first and more costly design, identified as the Blue Scheme, retains the façade and some of the structure of 170 Fell Street. The second design, identified as the Sepia Scheme, razes all of 170 Fell Street. The estimated cost of the Blue Scheme was set at $171.5 million and the cost of the Sepia Scheme was set at $142.9 million. Neither of those cost estimates included renovation of Nourse Auditorium, estimated to be an additional $28.6 million.

The 2007 LA Report concludes that relocation of SOTA to 170 Fell Street/135 Van Ness Avenue stagnated in large part because of "inability to secure the required funding, which

might be viewed as a prioritization or leadership issue." An additional challenge presented by the downtown site for SOTA arises from the fact that "the entire site is incorporated in City Landmark 140, and both buildings are contributors to the Civic Center Historic District. In addition, 170 Fell was determined eligible for the National Register of Historic Places and listed on the California Register. The 135 Van Ness building was determined to be ineligible for the National Register." (*See*, 2007 LA Report, 10.) These issues are discussed below.

The Chong Plans identify $64.3 million of available funding for either the Blue or Sepia Scheme. These amounts are included in the funding identified in the 2007 LA Report totaling about $79 million. Interestingly, the 2007 LA Report suggests that the sale of SFUSD surplus property, including the McAteer campus, could be used to fund moving SOTA to Civic Center, but no value is set out for those properties because SFUSD had yet to complete identification and valuation of surplus property. The report states:

> "The district is currently in the process of identifying surplus property, which it expects to complete in 2007. The district has already identified approximately 6-8 sites not being used for educational purposes that might be surplus. Given the decrease in attendance faced by the district, it is anticipated that as much as 20% of the district's facilities might be identified as surplus. Note that not all surplus property can be sold, as school boards are required to provide facilities for charter schools in their district. Under the California Education Code, proceeds from public school property sales can only be used for capital projects in the district. School property is a limited resource and often expensive to re-obtain in the face of enrollment growth. For this reason, districts are often reluctant to sell property." (Page 11)

As noted above, the value of 10 SFUSD surplus sites, including the McAteer campus was $132 million. That amount plus the amounts identified in the Chong Plans would have been sufficient to finance either the Blue or Sepia Scheme, including modifications to Nourse Auditorium, without the need of going to the voters for bond issuance authorization or other fund raising efforts. As the 2007 LA Report notes, the reason the SOTA project did not proceed in 2006 may be "viewed as of prioritization or leadership issue" rather than one of funding. At that time, it appears that the move of SOTA to Civic Center had no champion at either the superintendent level or with a majority of the Board of Education.

The fact that 135 Van Ness and 170 Fell are part of the Civic Center Historic District presents a challenge to the relocation of SOTA, or any other project, to that site. While it is a challenge, it is not an insurmountable one. San Francisco's regulations governing the designation of landmarks and historic districts are found in Article 10 of the Planning Code. Sec. 1004 specifically governs the Designation of Landmarks and Historic Districts by the Board of Supervisors, on the recommendation of the Historic Preservation Commission. Subsection (d) sets out the mechanism to amend or rescind a designation at any time. Section 1007 provides that "In the event any structure or other feature shall be damaged by fire, or other calamity, or by Act of God or by the public

enemy, to such an extent that in the opinion of the aforesaid officials it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws." The damage to 170 Fell caused by the Loma Prieta earthquake, considered an Act of God, therefore provides legal justification for rescinding the 170 Fell Street landmark status, if that is considered a desirable alternative in order to develop the site.

### *ii. 7th Avenue and Lawton Street*

The nearly two-acre lot at 7th Avenue at Lawton Street, located in the Forest Knolls area of the Inner Sunset District, was acquired by SFUSD in 1996 as part of a multiple-property land deal with the City. The Memorandum of Understanding (MOU) of September 16, 1996 included the following among its terms:

- The City would purchase a portion of the property located at 7th and Harrison Streets from its current owner. The City would transfer title to this property to SFUSD to build a new Bessie Carmichael School within three years in exchange for the SFUSD granting the City title to the old Bessie Carmichael School site (building to be demolished by the SFUSD). The City would pay SFUSD $800,000 for this exchange.
- The City would use the former Bessie Carmichael School site for open space and recreational purposes for at least 30 years.
- The SFUSD would ground lease to the City a portion of the playground of the San Francisco Community School site for construction of the Excelsior Youth Center.
- The SFUSD would pay to the City $2.3 million and the City would also provide $5 million to construct the Excelsior Youth Center.
- The City's Public Utilities Commission would acknowledge validity of the existing ground lease to SFUSD of the property at 7th Avenue and Lawton Street.
- The City's PUC would declare 7th Avenue and Lawton Street to be surplus property and sell it to SFUSD for $10,000 on condition SFUSD agreed to "use property solely for school uses for a term of at least 30 years."

The 7th Avenue and Lawton Street lot is adjacent to the White Crane Springs Community Garden owned by the Department of Public Works and is known to be the home of a few squatters.[43] The lot has been vacant for many decades and there is no evidence that SFUSD has fulfilled the condition of the 1996 MOU to use the property for school-related purposes. It has been used primarily by neighbors to walk their dogs. In addition, each year, from October to December, a vendor ("Clancy's Christmas Trees and Pumpkin Patch") rents the lot from SFUSD for about $40,000 to sell pumpkins and Christmas trees to the public. In spring of 2013, SFUSD issued a permit to PG & E to use the lot to store its equipment for five and a half months for a fee of about $80,000.

The area surrounding 7th Avenue at Lawton Street includes three- and four-story apartments on Locksley Avenue and two- and three-story single and multi-family residences along 7th Avenue.

In February 2009, CBRE Consulting issued a report commissioned by SFUSD identifying the vacant lot at 7th Avenue at Lawton Street as one of 10 properties that could be considered for potential sale, exchange, or lease. CBRE's analysis was based on the following methodology:

- Site visits to assess physical characteristics (such as size, topography, and access).
- Meetings with the City Planning Department, Real Estate Division, and other City/SFUSD officials to assess political and regulatory influences (such as zoning designations and neighborhood concerns).
- Market feasibility assessments using economic, demographic, and real estate statistics (such as sales of comparable sites, property values, and rental rates).

CBRE recommended two potential alternative uses for the lot at 7th and Lawton:

- Build single family housing through a "fee simple sale" to a developer. This would bring SFUSD the highest value for the property and would be the best use of the property.
- Negotiate a "ground lease" with a developer for constructing housing. This would allow SFUSD to retain ownership of the land while generating lease income. The valuation of the property would be lower than it would be in an outright sale, but SFUSD would be able to use the lease income without the restrictions imposed by the Education Code on the use of proceeds on the sale of school property.

CBRE estimated that a fee simple sale of the property to a single-family residential developer could yield an estimated $350,000 per lot. If a maximum of 20 housing units were built and sold, the estimated sales proceeds could amount to $7 million for SFUSD.

The September 2009 Bay Area Economics report (discussed above in part 2.a) provides data on different teacher ownership and rental models in the Bay Area as well as nationally. The SFUSD identified nine surplus properties for BAE to assess for affordable teacher housing. According to the BAE report the lot at 7th Avenue and Lawton Street would be able to accommodate 54 condo units.

The CBRE and BAE recommendations on the use of the 7th Avenue and Lawton Street property have never been implemented. This may be because of local opposition. The SFUSD's Office of Real Estate and Auxiliary Services reported that over the years, a watchful neighborhood association has objected to any sort of development proposal put forth for consideration. When an idea was floated regarding the possibility of constructing a community baseball field on the lot, dozens of protest letters inundated district officials and as, a result, the idea was dropped.

Because of fierce community resistance, the 7th Avenue site has remained vacant for many decades under SFUSD auspices, with a minimal amount of income for the SFUSD

and no property tax revenues for the City. This is yet another example of the San Francisco public sector failing to maximize use of its surplus property.

### *iii. 1950 Mission Street*

The 1950 Mission Street site is a 36,398 square foot parcel owned by the SFUSD and situated between 15th and 16th Streets in the heart of the dynamic Mission district. The paved site is surrounded by a high chain link fence and contains 12,300 square feet of mothballed, deteriorating modular portable buildings which once housed the Phoenix Continuation High School. It has been abandoned and listed as surplus property for many years by SFUSD. This property is a blight on its neighborhood. It suffers from years of inaction. If put to use it would meet housing needs, generate income for the SFUSD and tax revenue for the City.

This means that the SFUSD does not need this property to meet its core mission to educate our children. Since it is located in a busy mixed-use residential and commercial district, close to major transportation, there have been various proposals to utilize it for much-needed neighborhood housing, including proposals for subsidized teacher housing. Existing zoning for the site allows combined residential-commercial high-density dwelling units.

The 2009 Bay Area Economics study of housing development opportunities on SFUSD surplus and underutilized properties, identified above, states the following about 1950 Mission Street:

> This site is the only surplus site studied that is fully entitled for housing. The area has recently undergone a major re-zoning with the City Planning Department and political support for affordable housing is very strong in this area.
>
> The site can accommodate enough units to achieve economies of scale that would support rental housing.

Similarly the 2009 CBRE report called the site "an ideal location for housing, either market-rate or affordable" and estimated that 182 rental or condominium units could be constructed at the site under existing regulatory conditions. The report also noted that the City has identified the site as eligible for acquisition under the Naylor Act. Unfortunately, the Naylor Act, in itself, provides little incentive for the school district, always hard-pressed for funds, to offer this property to the City at less than the fair market rate for such property.[44] We discuss the Naylor Act below.

We are aware of discussions between the City and SFUSD regarding the possible exchange of this property to the City for housing.

### *iv. 555 Franklin Street and 601 McAllister Street*

After the 1989 Loma Prieta earthquake rendered 170 Fell Street uninhabitable, the SFUSD purchased this property near Civic Center using certificates of participation to fund the purchase. This property previously occupied by the California Bar Association became the new headquarters for the SFUSD. The building site occupies 106,000 square feet and contains 242,000 square feet of office space. In addition, the SFUSD leases an adjacent 56,000 square foot site from the City, used for parking.

We take positive note of the use of surplus property by the SFUSD related to 555 Franklin Street. In May of 2012, the SFUSD sold the unused school building and site located on Font Boulevard on the western side of the City to S.F. State University. The SFUSD used the proceeds from the sale to retire the certificates of participation used to purchase 555 Franklin Street. It thereby increased its cash flow by $800,000 annually over the remaining 15 years of the retired loan.

As noted above, the parking site leased by the SFUSD has a remaining term, assuming options to extend are exercised, of 66 years. The site has a 65-foot height limit. An adjacent lot owned by the City was recently sold to a private entity. There is development potential for this site, which is located in Hayes Valley at the end of the now-demolished Central Freeway, a neighborhood now undergoing a renaissance. Active development of affordable and market-rate housing is underway on former freeway parcels. The SFUSD's administrative building parking site is another example of property which has great potential for use in line with the Civic Center Plan.

## c. SFUSD Demographic Analyses and Enrollment Forecasts – March 2010

A demographic study prepared for the SFUSD and released in March of 2010,[45] during a period of economic recession, presents a mixed scenario on enrollment trends for the district:

- As a result of reduced housing growth and births in the 1990s, SFUSD enrollment gradually declined in the 2000s.
- Birth rates increased somewhat during the 2000s, which resulted in enrollment increases late in that decade. These increases are expected to continue.
- Birth rates increased more for non-minority families, which have been more likely to enroll their children in private schools. This will moderate enrollment increases to a certain extent, particularly in the long-established northwestern areas of the city.
- Total enrollments will continue to gradually increase as follows:
  - 2014 - 58,000 students
  - 2020 - 63,000 students
  - 2023 - 65,000 students
- By 2035, new housing concentrated in the eastern and southeastern parts of the city will increase enrollments by 11,000 students in that area.

Since the study was undertaken in a period of economic turmoil, it is entirely possible that some of the increase projected for established areas of the City was temporary and attributable to the recession, because fewer families could afford sending their children to private schools. The study will need updating to provide reliable projections.

As already noted, in the years ahead most enrollment growth is likely to occur in the southeast part of the City. Plans for these developments (e.g., Mission Bay, Hunter's Point and Treasure Island) identify sites for new local area schools.

In 2010, in an attempt to stabilize the path of students as they progress through school grades, SFUSD implemented a new student assignment process that identifies so-called "attendance area" elementary schools, emphasizing student assignments close to home and preferring that students attend local middle and high schools. While there will continue to be flexibility in the assignment process to ensure diversity and the availability of quality schools to all students, this assignment strategy should also make it easier to predict enrollment growth in geographic attendance areas.

From this study it is clear that citywide enrollment will not return to the school population for which the existing facilities were built, and that new school plants will mostly be required in the newly developed areas in the south east part of the City and on Treasure Island.

## d. Education Code Provisions Governing the Sale, Lease, or Exchange of School Property

While the provisions of the Surplus Property Ordinance discussed above do not apply to real property owned by SFUSD, the school district must comply with the provisions of the Education Code governing the sale, lease and exchange of real property,[46] including the Naylor Act,[47] to sell or lease any of its real property not needed for school classroom buildings (*i.e.*, "surplus property"[48]). Any lease of such property cannot be for a term of more than 99 years. Prior to leasing or selling surplus property the school district is required to appoint a district advisory committee, sometimes referred to as a "7/11 committee" because the committee must have no fewer than seven nor more than 11 members.[49] The committee advises the district on policies and procedures governing the disposition of school buildings or space in school buildings not needed for school programs.

Below is a brief overview of some additional provisions of the Education Code applicable to the sale, lease, or exchange of real property owned by a California school district.

The Naylor Act applies to the sale or lease of surplus property when the following three conditions are found to exist:[50]

1. All or a portion of the school site consists of land used for school playground, playing field or other outdoor recreational purposes.
2. The school site has been used for such purposes for at least 8 years immediately preceding the date the school district determines to sell or lease the school site.
3. No other available publicly-owned land in the vicinity of the school site is adequate to meet existing and foreseeable needs of the community for playground, playing field or other outdoor recreational purposes.

The Naylor Act allows the school district to exempt one or two school sites that would otherwise come under the act in special circumstances.[51] Where there are no exemptions available and it is determined that the Naylor Act applies, the district must offer to lease or sell the school site observing the following priorities: first, to the City; second, to any park or recreational district having jurisdiction within the area where the school site is located; third, to any regional park authority with similar jurisdiction; and fourth to the county in which the school site is located.

If the school district intends to sell surplus property for the purpose of developing low and moderate income housing, park and recreational purposes, or open space purposes, it must first offer the property to the applicable housing sponsor, or park and recreation department.[52]

Proceeds from the sale of a school site by the district may *not* be used for general operating purposes of the school district.[53] Such proceeds are to be used for capital outlay or for costs of maintenance of school district property that the school board determines will not recur within a five-year period.[54] The same is not true for proceeds from the lease of a school site by the district. Such funds may be used for general operating purposes of the district.

A new Education Code provision,[55] which became effective on July 1, 2012 and which becomes inoperative on June 30, 2013, requires a school district to first offer surplus property for sale or lease to certain charter schools before it can sell or lease to another party any surplus property identified as surplus after July 1, 2012.

A school district may, upon a two-thirds vote of its board, exchange property on any terms and conditions agreed to by the parties and the agreement may be entered into without complying with any other provisions of the Education Code.[56]

# Findings and Recommendations

Based on the examples we have described above and practices followed by other municipalities we have come to the following conclusions and make the following recommendations.

Finding 1:

Inadequate readily-accessible public information on publicly-owned real estate is part of the reason some properties have been allowed to languish and deteriorate, at a loss to the City. A more rational approach to handling under-utilized or surplus property requires that a comprehensive, detailed list of public properties is available on an ongoing basis.

The Fleishhacker Pool House is a perfect example of a situation where being "out of sight, out of mind" allowed a property to become so neglected that it eventually was destroyed by fire, resulting in a real loss for the City. A more transparent property database will make such occurrences less likely in future.

Recommendation 1.1:

The web-based San Francisco Property Information Map currently used to display Planning and Building Inspection Department information should be integrated with and further developed by other departments to convey complete information about City properties.

The Department of Technology and the Planning Department should work with and provide database access to all City departments enabling them to maintain the information on their properties.

Recommendation 1.2:

The online database of all properties owned by SFUSD and all City departments, including revenue-generating enterprise departments, needs to include information required by Chapter 23A of the Administrative Code.[57]

Recommendation 1.3:

City departments, commissions and agencies should be directed to maintain and update their departmental real estate database, which appears in the Real Estate Division Map of Real Property and Property Book.

Recommendation 1.4:

The Director of Real Estate should be required to review the list annually to confirm that all departments have made a complete report on their properties, including surplus and

underutilized properties, in accordance with the requirements of Chapter 23A of the Administrative Code; and the City Administrator should be required to report annually to the Board of Supervisors regarding the City's real property assets.

Finding 2:

Lack of transparent public debate contributes to suboptimal use of City real estate assets.

The Kirkland Property is a perfect case in point. SFMTA may have a good case for retaining the property as a bus maintenance yard as recommended by its consultant. However, allowing SFMTA to abandon stated plans for converting the property to commercial and/or residential use without public debate prevents possibly better, more economically efficient alternatives from being considered.

Recommendation 2:

The City and SFUSD should activate their respective Surplus Property Advisory Committees because the meetings of these committees provide a public forum in which to discuss best uses of publicly-owned real estate and each committee should be charged with monitoring uses of public property and making sure that there is ongoing accountability with respect to surplus and underutilized properties.

Finding 3:

The purposes for which the Surplus Property Ordinance was adopted are too narrow to effectively motivate City departments to identify surplus and underutilized properties for other uses or disposition. Further, the ordinance does not provide a department with any incentive to dispose of surplus or underutilized property.

Recommendation 3:

The Board of Supervisors should amend Chapter 23A of the Administrative Code to include an incentive for City Departments to identify and dispose of surplus and underutilized properties and to broaden the purposes for which surplus and underutilized properties may be used.

Finding 4:

Current practice allows City Departments and SFUSD to keep property on their surplus lists indefinitely without any consequence. The concern for a more rational approach to handling under-utilized or surplus property requires that a time limit be imposed on how long property may remain on these lists. If, after a pre-determined period, property which is identified as surplus or underutilized has not been put into use or fully-utilized or no plans have been adopted for its use or full-utilization, there should be specified consequences for the failure to act.

Recommendation 4:

The Board of Supervisors and the SF Board of Education should each adopt rules which limit the length of time property may remain on their respective surplus list without action and which address consequences for such inaction.

Finding 5:

Passive management of publicly-owned real estate leads to valuable properties lying fallow for years. The City and SFUSD leadership must be charged and empowered to develop plans for utilization of surplus / under-utilized parcels, including public-private partnerships where feasible and desirable.

Very valuable properties owned by City departments and SFUSD have been underutilized for decades and present prime opportunities to be repurposed or sold to create value for the City and SFUSD. The properties at 155/165 Grove Street, the Fire Chief's House at 870 Bush Street, the lot at 7th Avenue and Lawton Street, and 1950 Mission Street are a few examples of properties that have been passively managed.

Recommendation 5.1:

The SFUSD needs to designate someone who is given appropriate authority and whose time and energy is devoted to optimizing the use of surplus and under-utilized real estate through its development or disposition. That person should work with the Capital Planning Policy Committee and Surplus Property Advisory Committee to incorporate surplus and underutilized property into SFUSD's 10-year rolling Capital Plan.

Recommendation 5.2:

The Capital Planning Policy Committee of the San Francisco Capital Planning Program should be made responsible for overseeing the publicly-owned surplus and underutilized property list for the City and for assuring that clear plans for the disposition or repurposing of such properties are generated and incorporated into the 10-year rolling capital plan of the Capital Planning Program.

Finding 6:

Given the location of 135 Van Ness Avenue and 170 Fell Street in the heart of the City's cultural center, and the historic nature of the structures, their current status is far from the highest and best use of these unique properties. Plans by SFUSD to convert the properties into the School of the Arts have not moved forward because of, among other reasons, a lack of needed funding. Yet, at the time, and now, SFUSD owned and continues to own, sufficient surplus and underutilized property that if sold could fund the entire project. Other alternative and better uses of this complex may be possible.

Recommendation 6:

The entire complex of historic buildings at 135 Van Ness / 170 Fell Street, including Nourse Auditorium, should be put to productive use by, for example, converting the complex into the School for the Arts.

# Response Matrix

| Findings | Recommendations | Responses Required |
|---|---|---|
| 1. Inadequate readily-accessible public information on publicly-owned real estate is part of the reason some properties have been allowed to languish and deteriorate, at a loss to the City. A more rational approach to handling under-utilized or surplus property requires that a comprehensive, detailed list of public properties is available on an ongoing basis.<br><br>The Fleishhacker Pool House is a perfect example of a situation where being "out of sight, out of mind" allowed a property to become so neglected that it eventually was destroyed by fire, resulting in a real loss for the City. A more transparent property database will make such occurrences less likely in future. | 1.1 The web-based San Francisco Property Information Map currently used to display Planning and Building Inspection Department information should be integrated with and further developed by other departments to convey complete information about City properties.<br><br>The Department of Technology and the Planning Department should work with and provide database access to all City departments enabling them to maintain the information on their properties.<br><br>1.2 The online database of all properties owned by SFUSD and all City departments, including revenue-generating enterprise departments, needs to include information required by Chapter 23A of the Administrative Code.<br><br>1.3 City departments, commissions and agencies should be directed to maintain and update their departmental real estate database, which appears in the Real Estate Division Map of Real Property and Property Book. | Department of Technology<br>Planning Department ✓<br>Real Estate Department ✓<br>Dir. of Capital Planning<br><br>Mayor's Office ✓<br>City Administrator ✓<br>Superintendent of Schools ✓<br><br>Mayor's Office<br>City Administrator |

| | | |
|---|---|---|
| | 1.4 The Director of Real Estate should be required to review the list annually to confirm that all departments have made a complete report on their properties, including surplus and underutilized properties, in accordance with the requirements of Chapter 23A of the Administrative Code; and the City Administrator should be required to report annually to the Board of Supervisors regarding the City's real property assets. | Mayor's Office<br>City Administrator<br>Real Estate Department |
| 2. Lack of transparent public debate contributes to suboptimal use of City real estate assets.<br><br>The Kirkland Property is a perfect case in point. SFMTA may have a good case for retaining the property as a bus maintenance yard as recommended by its consultant. However, allowing SFMTA to abandon stated plans for converting the property to commercial and/or residential use without public debate prevents possibly better, more economically efficient alternatives from being considered. | 2. The City and SFUSD should activate their respective Surplus Property Advisory Committees because the meetings of these committees provide a public forum in which to discuss best uses of publicly- owned real estate and each committee should be charged with monitoring uses of public property and making sure that there is ongoing accountability with respect to surplus and underutilized properties. | City Administrator<br>Superintendent of Schools |
| 3. The purposes for which the Surplus Property Ordinance was adopted are too narrow to effectively motivate City departments to identify surplus and underutilized properties for other uses or disposition. Further, the ordinance | 3. The Board of Supervisors should amend Chapter 23A of the Administrative Code to include an incentive for City Departments to identify and dispose of surplus and underutilized properties and to broaden the purposes for which | Mayor<br>Board of Supervisors |

| | | |
|---|---|---|
| does not provide a department with any incentive to dispose of surplus or underutilized property. | surplus and underutilized properties may be used. | |
| 4. Current practice allows City Departments and SFUSD to keep property on their surplus lists indefinitely without any consequence. The concern for a more rational approach to handling under-utilized or surplus property requires that a time limit be imposed on how long property may remain on these lists. If, after a pre-determined period, property which is identified as surplus or underutilized has not been put into use or fully-utilized or no plans have been adopted for its use or full-utilization, there should be specified consequences for the failure to act. | 4. The Board of Supervisors and the SF Board of Education should each adopt rules which limit the length of time property may remain on their respective surplus list without action and which address consequences for such inaction. | Board of Supervisors<br>Board of Education ✓ |
| 5. Passive management of publicly-owned real estate leads to valuable properties lying fallow for years. The City and SFUSD leadership must be charged and empowered to develop plans for utilization of surplus / under-utilized parcels, including public-private partnerships where feasible and desirable.<br><br>Very valuable properties owned by City departments and SFUSD have been underutilized for decades and present prime opportunities to be repurposed or sold to create value for the City and SFUSD. As noted in this | 5.1 The SFUSD needs to designate someone, who is given appropriate authority, whose time and energy is devoted solely to optimizing use of surplus and under-utilized real estate through its development or disposition. That person should work with the City's Capital Planning Policy Committee and Surplus Property Advisory Committee to incorporate surplus and underutilized property into SFUSD's and City's respective10-year rolling capital plans.<br><br>5.2 The Capital Planning Policy Committee of the San Francisco Capital Planning Program should | Superintendent of Schools<br><br>City Administrator |

| | | |
|---|---|---|
| report, the properties at 155/165 Grove Street, the Fire Chief's House at 870 Bush Street, the lot at 7th Avenue and Lawton Street, and 1950 Mission Street are a few examples of properties that have been passively managed. | be made responsible for overseeing the publicly-owned surplus and underutilized property list for the City and for assuring that clear plans for the disposition or repurposing of such properties are generated and incorporated into the 10 year rolling capital plan of the Capital Planning Program. | |
| 6. Given the location of 135 Van Ness Avenue and 170 Fell Street in the heart of the City's cultural center, and the historic nature of the structures, their current status is far from the highest and best use of these unique properties. Plans by SFUSD to convert the properties into the School of the Arts have not moved forward because of, among other reasons, a lack of needed funding. Yet, at the time, and now, SFUSD owned and continues to own, sufficient surplus and underutilized property that if sold could fund the entire project. Other alternative and better uses of this complex may be possible. | 6. The entire complex of historic buildings at 135 Van Ness / 170 Fell Street, including Nourse Auditorium, should be put to productive use by, for example, converting the complex into the School for the Arts. | Board of Education<br>Superintendent of Schools |

# Methodology

During our investigation and in order to prepare this report our jury conducted numerous interviews with individuals having direct and indirect oversight and management responsibilities for publicly-owned real property in the City and County of San Francisco. The jury met, in some cases more than once, with members of the Board of Supervisors, commissioners, department heads, senior staff, labor representatives, members of advisory committees and consultants, among others. Such individuals are with the SF Municipal Transportation Agency, the Mayor's Office of Housing, the San Francisco Unified School District, the SF Department of Real Estate, the SF Planning Department, the SF Fire Department, the SF Capital Planning Program, and the Recreation and Parks Department, among others.

In addition, we reviewed provisions of the City Charter, the SF Administrative Code, the SF Planning Code, the CA Education and Government Codes, reports relating to City and School District real property identified in this report and in the bibliography, audit reports, and reports on the management of real property prepared for other jurisdictions. We also went online to review the Real Estate Division Map and Property Book data base maintained by the Department of Planning.

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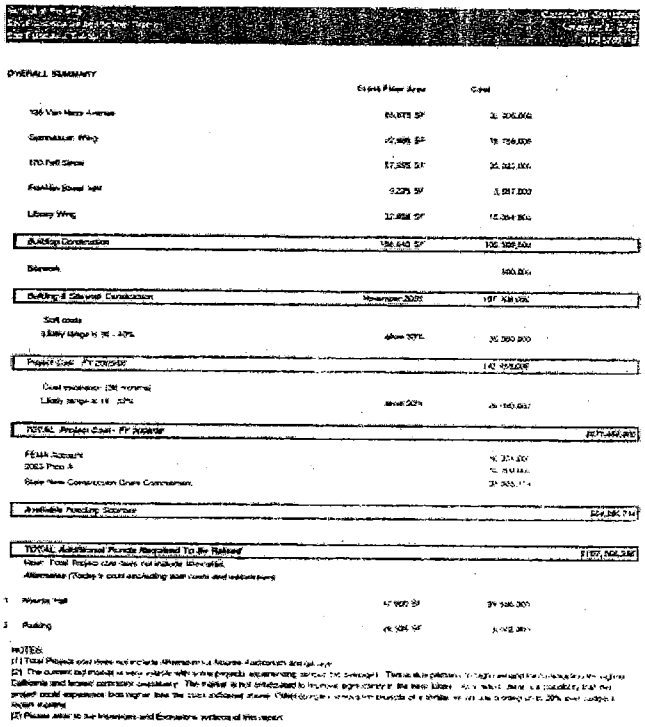
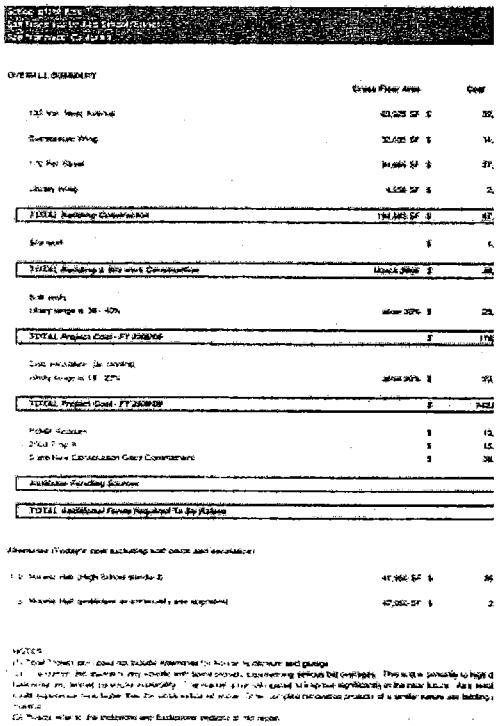
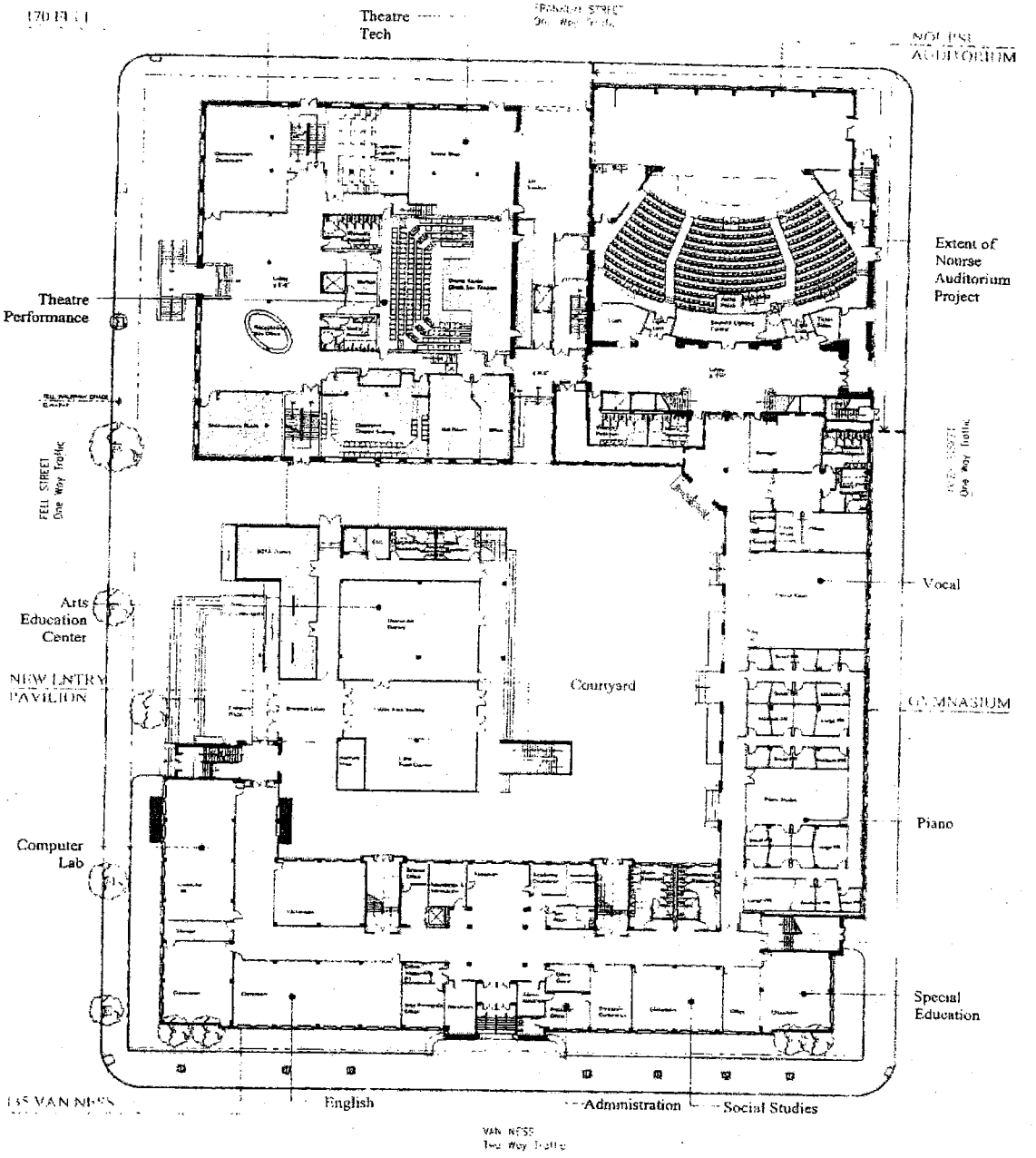
# Appendix

Conceptual Plan & Cost Model, School of the Arts, San Francisco Unified School District prepared by Chon
(Blue and Sepia Schemes).





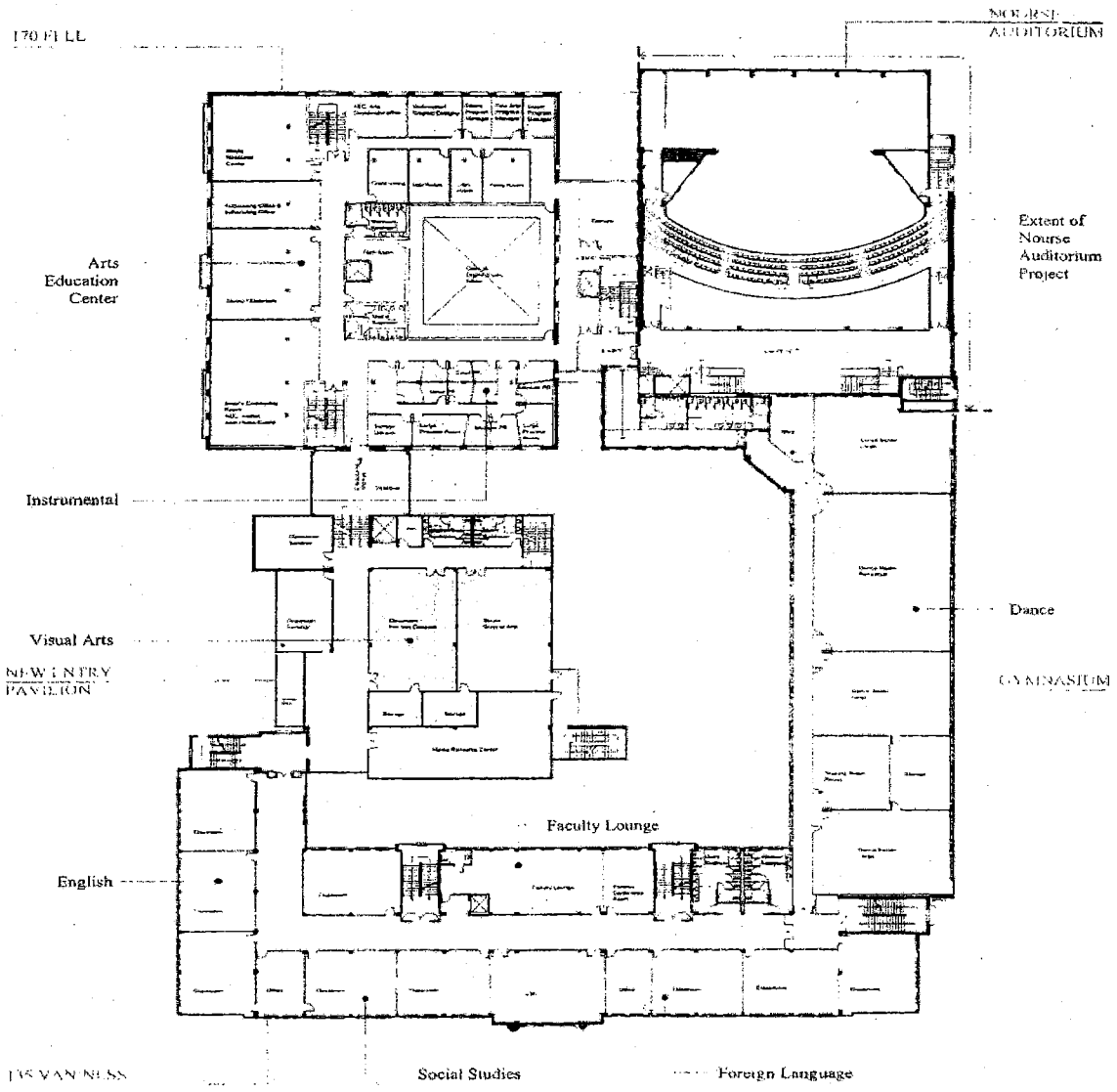

School of the Arts
Blue Scheme




**1** School of the Arts
First Floor Plan

**CHONG | PARTNERS** ARCHITECTURE

5 May 2006




2 School of the Arts
Second Floor Plan
**CHONG | PARTNERS** ARCHITECTURE

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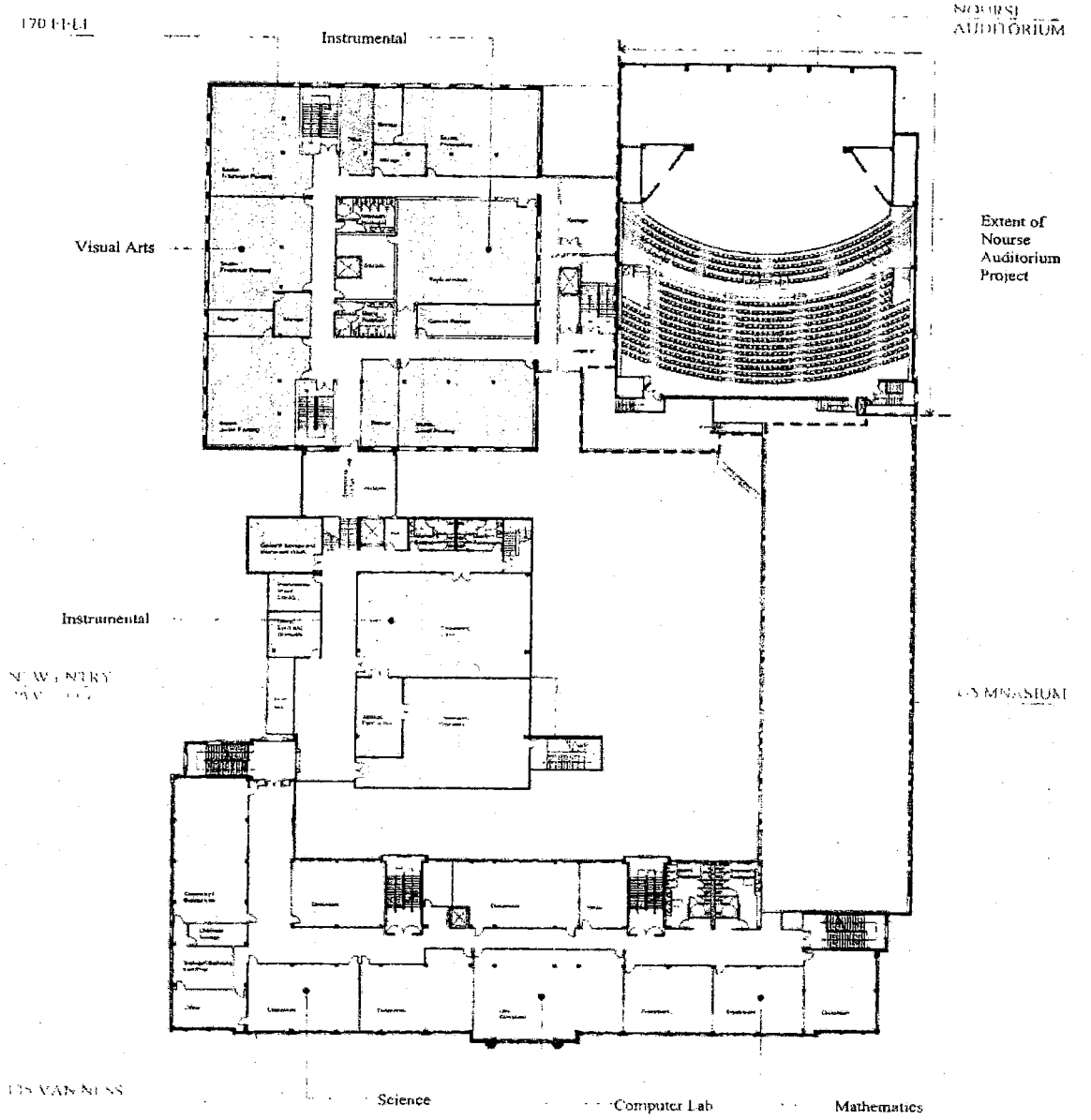


3 School of the Arts
Third Floor Plan
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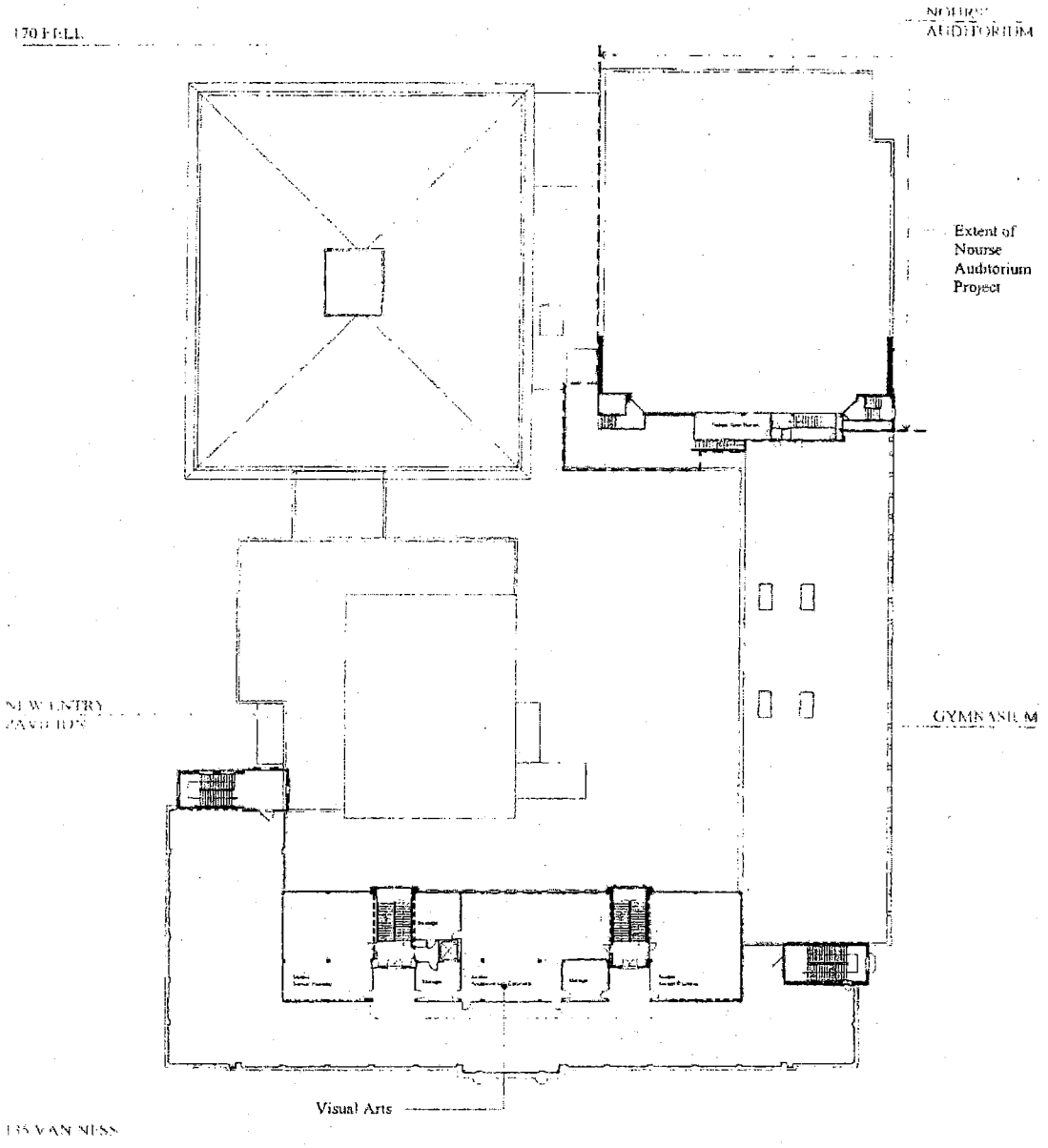


**4** School of the Arts
Fourth Floor Plan
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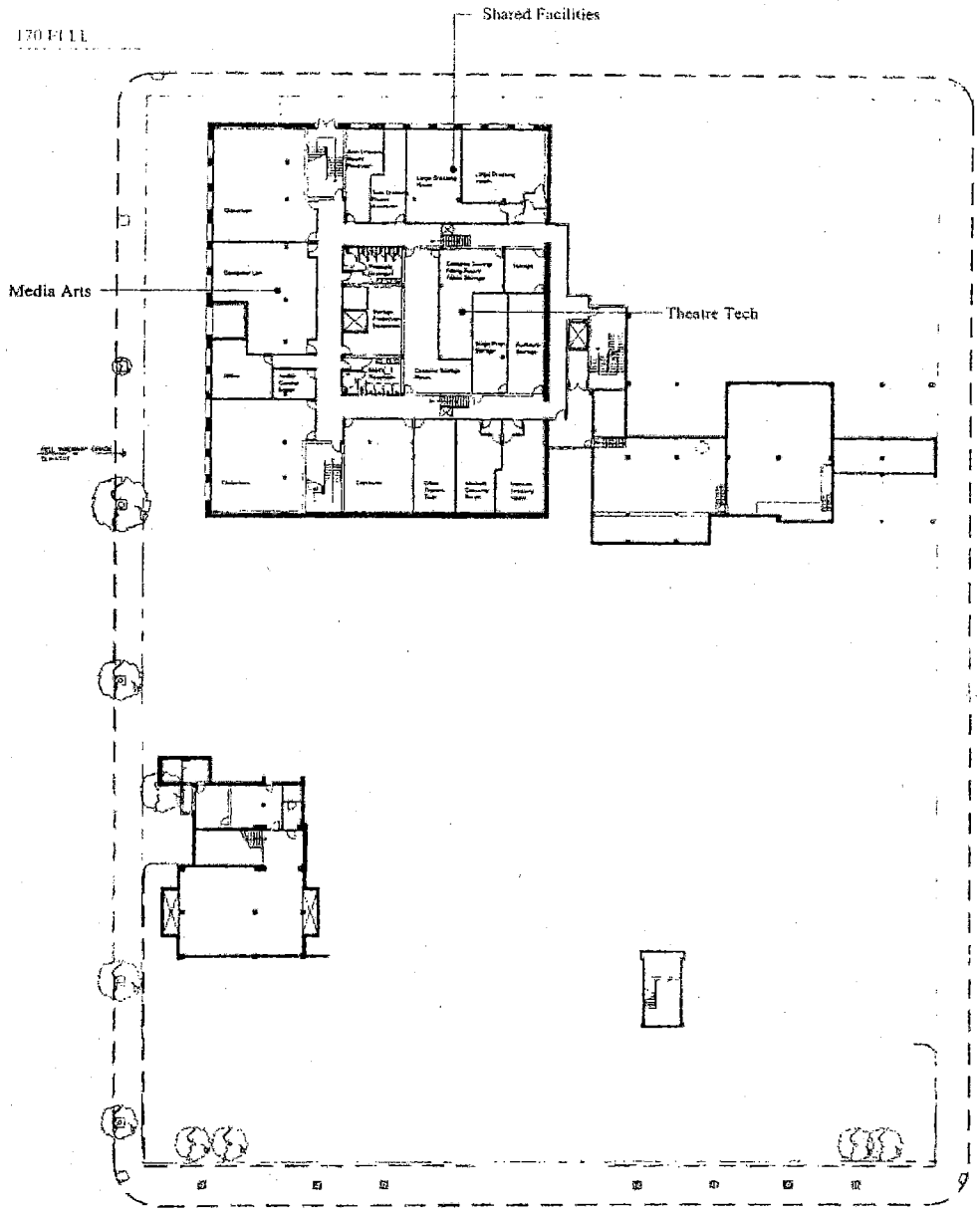
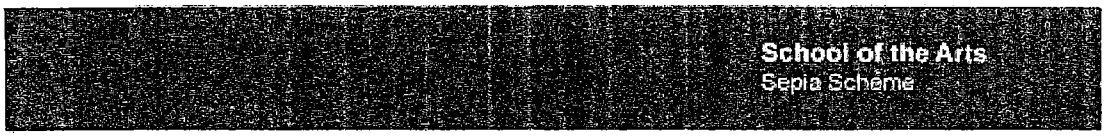
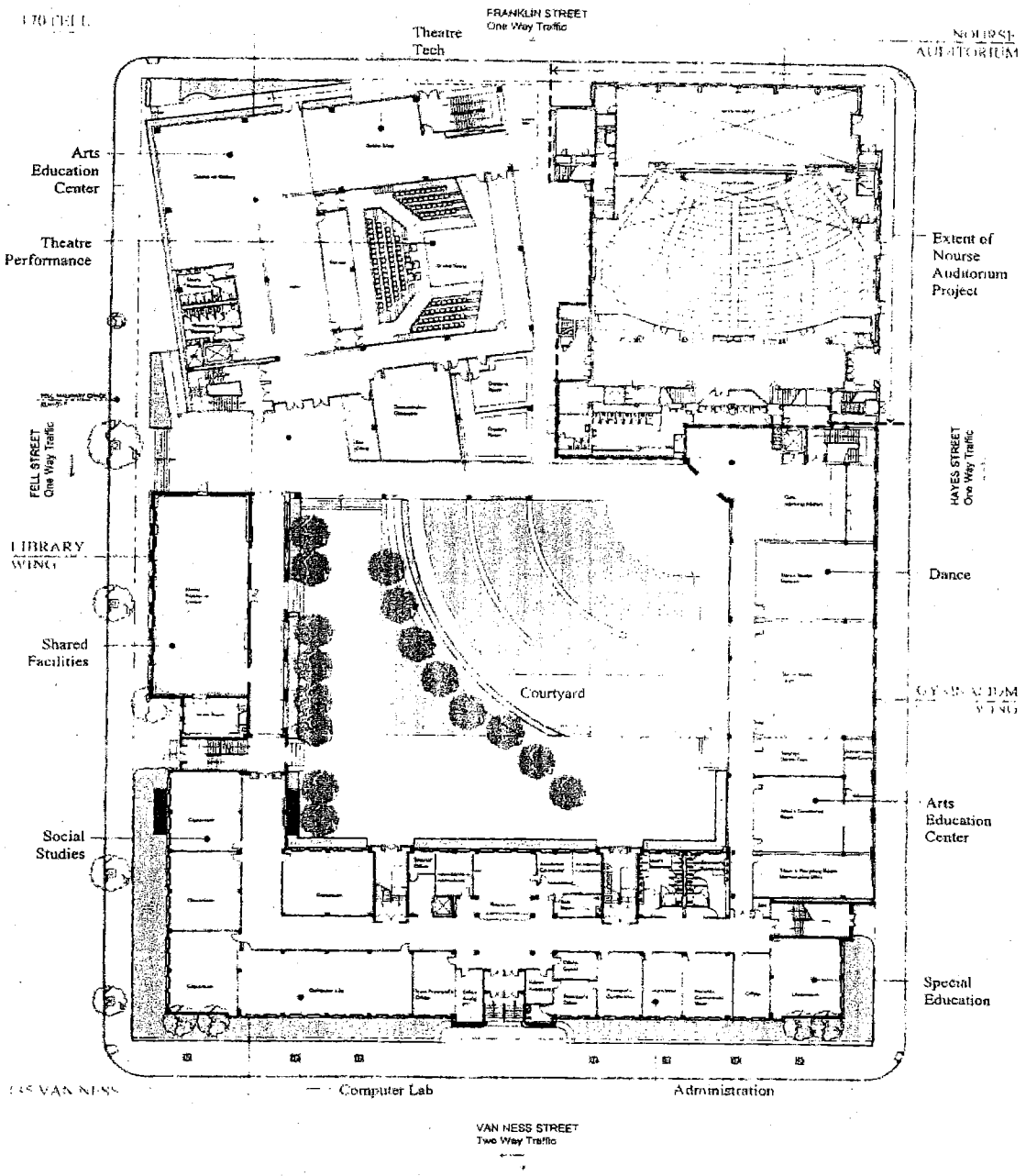



B School of the Arts
Basement Plan
CHONG | PARTNERS ARCHITECTURE

5 May 2008

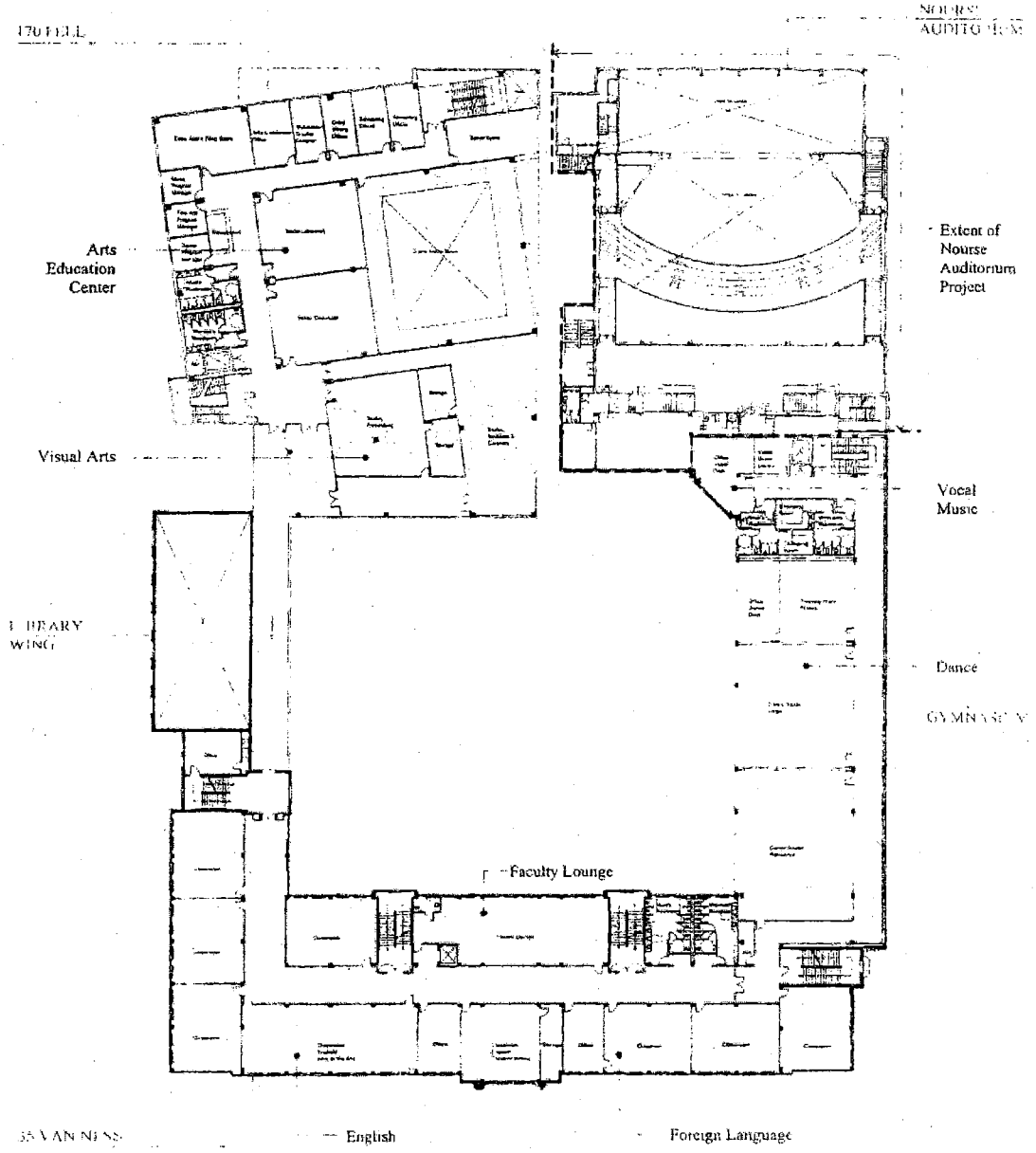

School of the Arts
Sepia Scheme




**1** School of the Arts
First Floor Plan

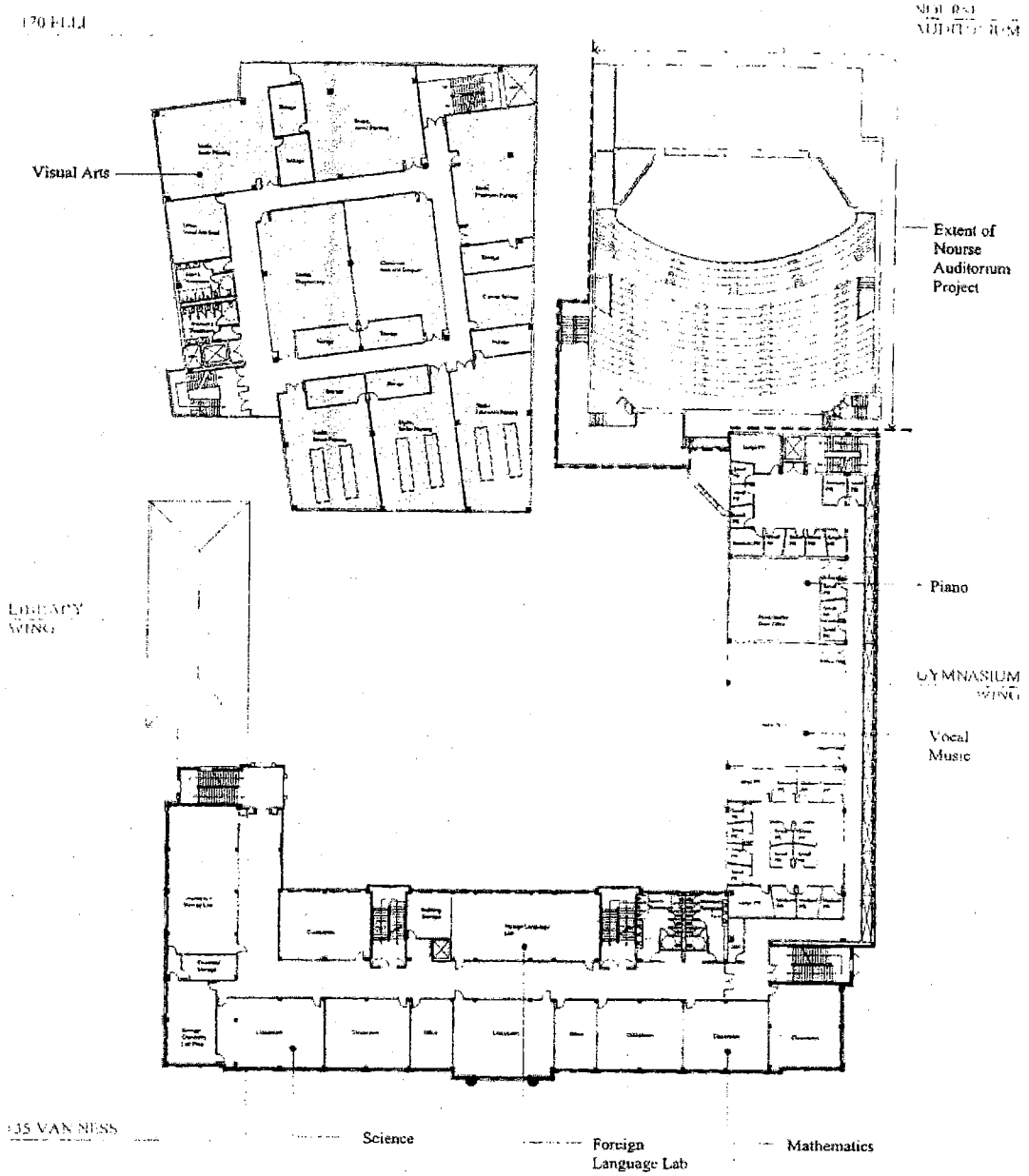
**CHONG | PARTNERS** ARCHITECTURE

5 May 2006




2 School of the Arts
Second Floor Plan
CHONG | PARTNERS ARCHITECTURE

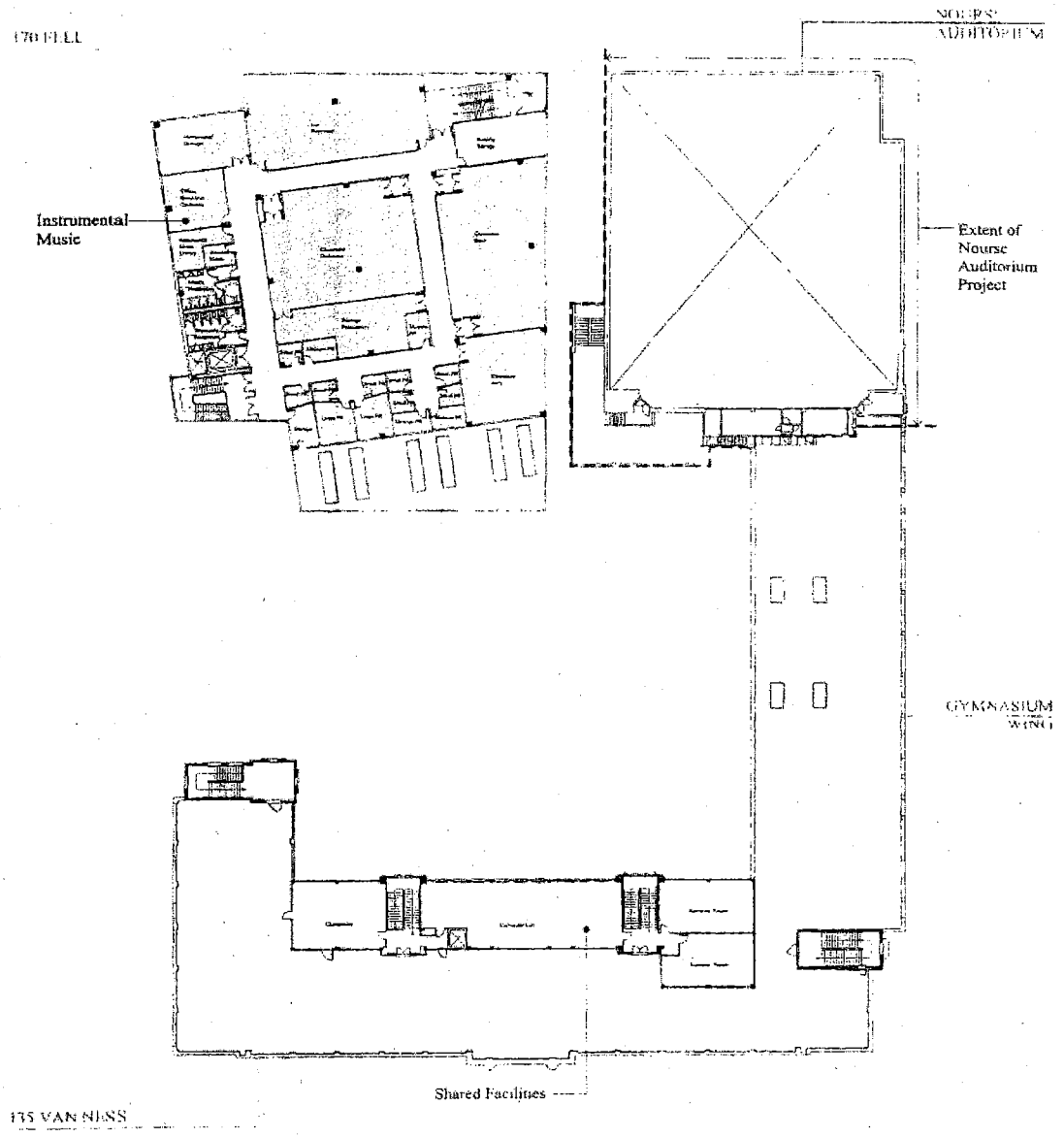
5 May 2006




3 School of the Arts
Third Floor Plan

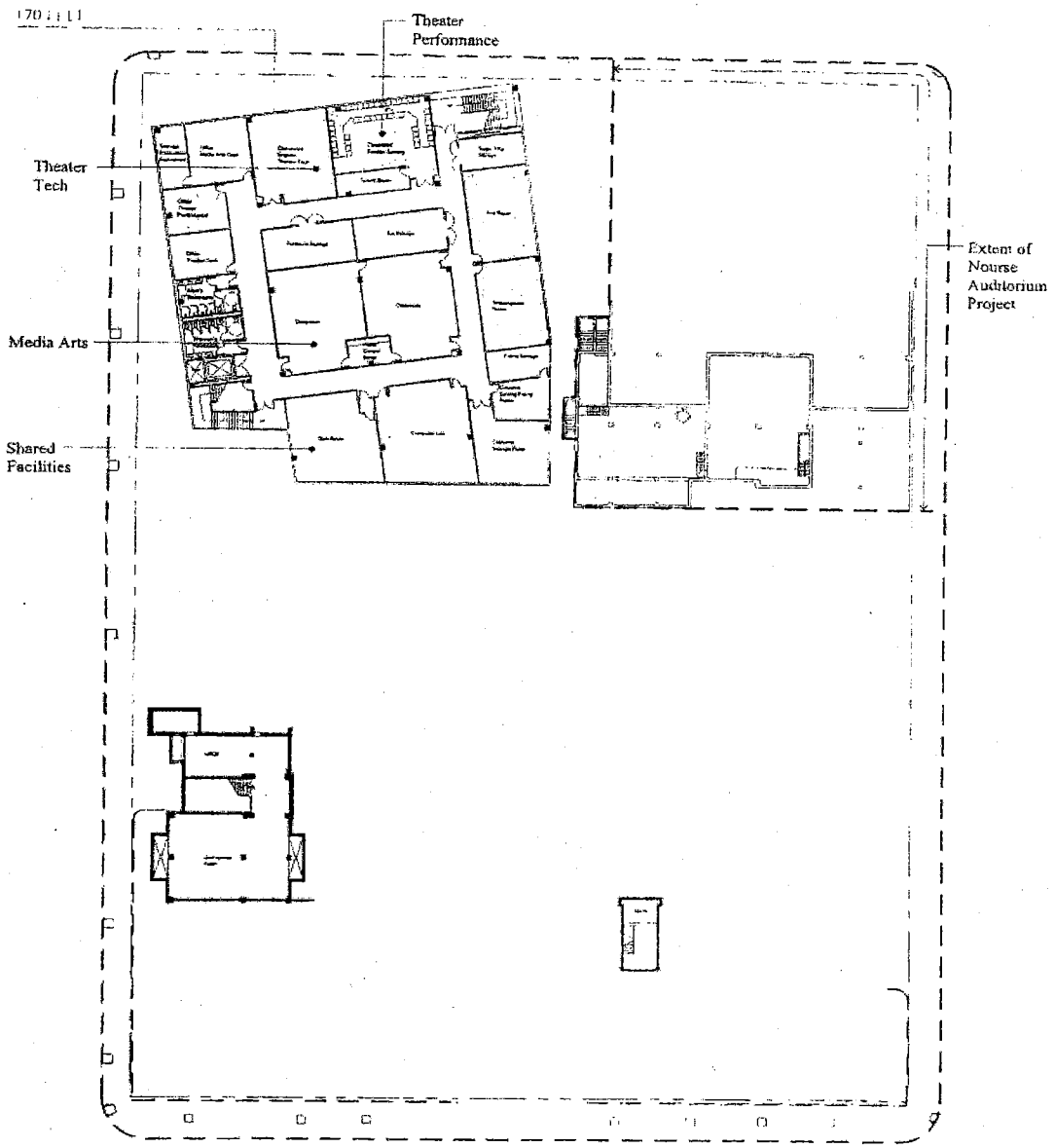
CHONG | PARTNERS ARCHITECTURE

5 May 2006




**4** School of the Arts
Fourth Floor Plan
**CHONG | PARTNERS** ARCHITECTURE

6 May 2006




**B** School of the Arts
Basement Plan

**CHONG | PARTNERS** ARCHITECTURE

5 May 2006

# Endnotes

[1] S.F. Civil Grand Jury, "Being Propositioned by the San Francisco Unified School District", July 2, 2009
[2] Center for Cities and Schools of the University of California, Berkeley on "*San Francisco's Public School Facilities as Public Assets: A Shared Understanding and Policy Recommendations for the Community Use of Schools*"
[3] San Francisco Board of Supervisors, Budget and Legislative Analyst, "Evaluation of Potential Surplus Property", March 23, 2012
[4] S.F. Administrative Code § 23A.5 (a) The street address of the Property (if there is one), and the Assessor's block and lot number; (b) A general description of the Property, including the current use of the Property or any planned use of the Property within the next fiscal year; (c) A general description of any structure(s) on the Property as well as an assessment of their physical condition; (d) Whether the Property is now vacant or scheduled or anticipated to be vacant within the next fiscal year; (e) If the Property is vacant or contains vacant structures, whether the Commission, department or agency deems the Property to be "Surplus," or "Underutilized" as defined in this Section; and (f) A general summary of the terms and conditions of any gift, trust, deed restriction, bond covenant or other covenants or restrictions, deed of trust, lease, license, easement, use agreement or other agreement applicable to the use or disposition of such Property.
[5] *Ibid.*
[6] The Potrero View, "Muni Makes Progress with Islais Creek Maintenance Site", February 2009
[7] Federal Transit Administration, "State of Good Repair – Bus and Bus Facilities Project Descriptions
[8] http://sfacgallery.wikispaces.com/
[9] S.F. Department of City Planning, "The Civic Center: a development program", 1987, http://archive.org/details/civiccenterdevel1987sanf
[10] http://sfacgallery.wikispaces.com/
[11] Citizens Advisory Committee of the Surplus City Property Program, December 20, 2004, http://sf-moh.org/index.aspx?page=108
[12] The ordinance was "Finally Passed" by the Board of Supervisors Nov. 18, 2002. It was incorporated in the Administrative Code by Ordinance 227-02, approved Nov. 26, 2002. It was amended by Ordinance 93-04, "Finally Passed" May 18, 2004.
[13] California Government Code § 54220 *et seq.*
[14] S.F. Administrative Code § 23.3 (Conveyance of Real Property
[15]The Surplus Property Citizens' Advisory Committee has a variety of tasks under the Ordinance, and has 13 members, 8 appointed with varying experience and positions by the Board of Supervisors, 1 representative from the Mayor's Office of Housing, 2 members directly appointed by the Mayor ("one member who advocates on behalf of open space and/or neighborhood parks...one who broadly represents the interests of San Francisco's neighborhoods") and designees from the Mayor's Budget Director and the Chair of the BOS Finance and Audits Committee.
[16] San Francisco Administrative Code § 23A.5 "By April 1st of each year, each City Commission, department or agency shall compile and deliver to the [City] Administrator a list of all Property that it occupies or is...under its control." The property is to be identified by description and assessor's block and lot number and its current and planned usage is to be provided. Further, "[i]f the Property is vacant or contains vacant structures, whether the Commission, department or agency deems the Property to be 'Surplus,' or 'Underutilized'" as defined in the Ordinance.
[17] *Supra,* "The Administrator shall review the list of Property...and shall strike...any Property...under the jurisdiction of the Recreation and Park Department" or which is otherwise subject to restrictions preventing disposal of the Property. The Administrator shall "consult with other City Departments, Mayor, members of the Board of Supervisors and the Citizens' Advisory Committee" to identify Property in the initial list for which a transfer of jurisdiction between departments satisfies a "specific operational need." "By June 1st of each year, the Administrator shall compile a comprehensive report for the remaining Property listed" and which constitutes the Surplus Property Report. *Supra at* § 23A.6 "No later than June 30th of each year, the Administrator shall transmit the completed Surplus Property Report to the Mayor's Office Housing and to the Board of Supervisors."

[18] *Supra at* § 23A.7 "By July 15th of each year, the Administrator, working with the Executive Director [of the Mayor's Office of Housing] and City Attorney's Office, shall submit to the Mayor and Board of Supervisors legislation transferring jurisdiction over the Properties, save and except for those Properties that are under the jurisdiction of Enterprise Departments, on the Surplus Property Report...to the Mayor's Office of Housing...for the purpose of MOH's assessment of each Surplus Property for development as affordable housing consistent with this Chapter." "Enterprise Departments" are identified in § 23A.2(l) as "the Port, the Airport, the Public Utilities Commission, the Municipal Transportation Agency, the Recreation and Parks Commission and the Fine Arts Museums Board of Trustees" which "have jurisdiction and control of their respective Property, and...the provisions of [Administrative Code c. 23A] shall operate only as recommendations of policy to such departments and Commissions." However, the "Board of Supervisors may....urge...Enterprise Departments to consider approving a transfer of jurisdiction over the Properties to MOH for uses consistent with this Chapter." *See* § 23A.7. San Francisco Charter § 4.113 requires approval by a vote of the electors for the sale, lease or non-recreational use of property within the jurisdiction of the Recreation and Park Commission, which, therefore, excludes such property from the scope of the Surplus Property Ordinance.
[19] San Francisco Administrative Code § 23.3 *supra*
[20] *Supra* at § 23A.8
[21] *Supra* at § 23A.10 (i) and (ii)
[22] *Supra* at § 23A.8(c)
[23] An affordable housing development under subsection (c) "shall serve persons earning no more than 60% of the Area Median Income...and, in preparing recommendations as to the applications received, shall give priority to projects that include the highest percentage of extremely low-income persons."
[24] *Supra* at § 23A.8(e)
[25] San Francisco Board of Supervisors, Budget and Legislative Analyst, "Evaluation of Potential Surplus Property", March 23, 2012
[26] *Ibid.*
[27] Administrative Code 23A.10(i) and (iii), which define applicable income levels
[28] San Francisco Board of Supervisors, Budget and Legislative Analyst, "Performance Audit of San Francisco's Affordable Housing :Policies and Programs," January 18, 2012, pp. 38-40 and Tables 3-1 through 3-4
[29] *Supra*, p. 10
[20] BOS File No. 101479, Executive Summary, Feb. 2, 2011, eighth bullet.
[31] California Government Code § 54222(a)
[32] San Francisco Unified School District Research Department; SFUSD website: www.sfusd.edu; SFUSD Property Description by Parcel Number, revised October 2, 2012
[33] San Francisco Unified School District Human Resources Department
[34] San Francisco Unified School District Capital Plan FY 2010-2019 (the "2009 Capital Plan"), page 24
[35] 2008-2009 San Francisco Civil Grand Jury, *Use It or Lose It: A Report on the Surplus Real Property Owned by the San Francisco Unified School District, June 11 2009, page 3*
[36] *Ibid.*
[37] Center for Cities and Schools of the University of California, Berkeley, "*San Francisco's Public School Facilities as Public Assets: A Shared Understanding and Policy Recommendations for the Community Use of Schools", March 2010*
[38] *Ibid.*, pp 24-25
[39] *Ibid.*, pp 28-29
[40] S.F. Board of Supervisors Office of the Legislative Analyst, School of the Arts Civic Center Campus (OLA No. 012-07), September 20, 2007
[41] *Ibid.*, page 8
[42] S.F. Planning Department, Civic Center Plan, http://www.sf-planning.org/ftp/General_Plan/Civic_Center.htm
[43] CBRE Consulting Report, February 2009, p.146
[44] California Education Code §17491(a)
[30] Lapkoff & Golalet Demographic Research, Inc., "Demographic Analyses and Enrollment Forecasts for the San Francisco Unified School District" (March 18, 2010)
[46] California Education Code §17385 *et seq.*

[47] *Ibid.*, § 17485 *et seq.*
[48] *Ibid.*, § 17455
[49] *Ibid.*, § 17387 *et seq.*
[50] *Ibid.*, § 17486
[51] *Ibid.*, § 17497
[52] *Ibid.*, § 17459; California Government Code §54222
[53] *Ibid.*, § 17457
[54] *Ibid.*, § 17462
[55] *Ibid.*, § 17457.5
[56] *Ibid.*, § 17536-17538
[57] S.F. Administrative Code § 23A.5 *supra*

Print Form

# Introduction Form

**By a Member of the Board of Supervisors or the Mayor**

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☒ 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. [ ]

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Clerk of the Board

**Subject:**

Board Response - Civil Grand Jury Report - "Optimizing the Use of Publicly-Owned Real Estate: Achieving Transparency, Momentum, and Accountability"

**The text is listed below or attached:**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2012-2013 Civil Grand Jury Report entitled "Optimizing the Use of Publicly-Owned Real Estate: Achieving Transparency, Momentum, and Accountability" and urging the Mayor to cause the implementation of accepted findings and recommendations through his department heads and through the development of the annual budget.

Signature of Sponsoring Supervisor: [signature]

For Clerk's Use Only: