August 31, 2012

The Honorable Katherine Feinstein
Presiding Judge
Superior Court of California
City and County of San Francisco
400 McAllister Street, Room 206
San Francisco, CA 94102-4512

Re: In the Matter of the 2011-12 Civil Grand Jury – Treasurer-Tax Collector Response

Dear Judge Feinstein:

I write to provide the Office of the Treasurer & Tax Collector's required response to the San Francisco Civil Grand Jury Report: "Surcharges and Healthy San Francisco: Healthy for Whom?" The Civil Grand Jury has requested a response from the department to Finding F3, and Recommendation R2.

Finding F3: "Neither the City nor the State of California, to the Jury's knowledge, has investigated whether sales tax is being added to surcharges."

Response: The Finding is not reasonable.

The Office of the Treasurer & Tax Collector shares the Civil Grand Jury's concerns about the possible under-reporting of sales taxes. However, the Office of the Treasurer & Tax Collector does not collect the sales tax. Revenue and Taxation Code Section 6451 specifies that the sales tax is due and payable to the State Board of Equalization. The Treasurer defers to the State Board of Equalization for their response regarding sales tax investigations.

Recommendation R2: "The Office of the Treasurer & Tax Collector investigate the under-reporting of sales taxes on surcharges."

Response: Recommendation R2 will not be implemented by the Office of the Treasurer & Tax Collector because it is not reasonable.

The Office of the Treasurer & Tax Collector shares the Civil Grand Jury's concerns about the possible under-reporting of sales taxes. However, the Office of the Treasurer & Tax Collector does not collect the sales tax. Revenue and Taxation Code Section 6451 specifies that the sales tax is due and payable to the State Board of Equalization. The Treasurer defers to the State Board of Equalization for their response regarding sales tax investigations.

Respectfully Submitted,

José Cisneros
Treasurer

Greg Kato
Policy and Legislative Manager