Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2011-2012 Civil Grand Jury report entitled "Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her 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 2011-2012 Civil Grand Jury Report entitled “Where There's Smoke...The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy" is on file with the Clerk of the Board of Supervisors in File No. 120793, 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. 1, 9, 10, 13, 17, 18, 19, 23, 24, 27, 34, 35, 36, 37, and 38 as well as...
Recommendations 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 22, and 23 contained in the
subject Civil Grand Jury report; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the Recommendation No. 8 states: "Human and material resources adequate to the task be devoted to the rapid completion of the inventory, appraisal, and cataloging of the Collection;" and
WHEREAS, the Recommendation No. 9 states: "Re-designate maintenance and conservation of the Collection as an operating expense of the SF AC rather than a capital budget item;" and

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

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

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

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

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

WHEREAS, the Recommendation No. 15 states: "SF AC hold public hearings about the Cultural Centers and their short- and long-term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers;" and
WHEREAS, the Recommendation No. 17 states: "Move the Street Artists Program to the Office of Small Business;" and

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

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

WHEREAS, the Recommendation No. 23 states: "Redirect Hotel Tax Fund money allocated to the SFS by GFTA to the SF AC;" 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. 1, 9, 10, 13, 17, 18, 19, 23, 24, 27, 34, 35, 36, 37, and 38 as well as Recommendations 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 22, and 23 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 it partially disagrees with Finding 1 for reasons as follows: The Board of Supervisors does not have the actual data to support this finding at this time; and, be it

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

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

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10/11/2012
FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with Finding 13 for reasons as follows: The Board defers to the Arts Commission's response; and, be it

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

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

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

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

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

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

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

FURTHER RESOLVED, That the Board of Supervisors reports that it agrees with Finding 35; and, be it
FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with
Finding 36 for reasons as follows: The Arts Commission could request a supplemental
appropriation from the Board of Supervisors and/or the Mayor; and, be it

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

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

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

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

FURTHER RESOLVED, That the Board of Supervisors reports that it requires further
analysis for Recommendation 3 for reasons as follows: The Board intends to investigate the
matter, and the Board requests that, before January 23, 2013, the Arts Commission, Director
of Cultural Affairs, and the Office of Small Business returns to the Board with an evaluation of
potential options; and, be it
FURTHER RESOLVED, That the Board of Supervisors reports that it will implement Recommendation 8 per the Arts Commission’s response; and, be it

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

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

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

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

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

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

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

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

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

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

FURTHER RESOLVED, That the Board of Supervisors reports that it will not
implement Recommendation 23 for reasons as follows: The Board will review the matter in
conjunction with the City’s annual budget cycle in June; 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.
Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2011-2012 Civil Grand Jury report entitled "Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

October 11, 2012 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

October 11, 2012 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED

October 23, 2012 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Campos, Chiu, Cohen, Elsbernd, Farrell, Kim, Mar, Olaque and Wiener
Excused: 1 - Chu

I hereby certify that the foregoing Resolution was ADOPTED on 10/23/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Date Approved: November 2, 2012

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

Angela Calvillo
Clerk of the Board