

# Revitalizing an Urban Arts Market

Feasibility Analysis of Program Evaluation Recommendations

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## Table of Contents

<b>The Takeaway</b> .....	<b>3</b>
<b>Introduction</b> .....	<b>4</b>
<b>Feasibility Analysis</b> .....	<b>6</b>
Financial Considerations .....	6
Staffing Constraints .....	7
Community Impact Concerns .....	8
<b>Implementation Work Plan</b> .....	<b>10</b>
Laying the Groundwork with Legislative Amendments .....	10
Phasing in Change .....	10
<b>Appendix I: Methodology</b> .....	<b>12</b>
<b>Appendix II: Resources</b> .....	<b>13</b>

# The Takeaway

The May 2015 SAP evaluation report identified three critical issues: the quality of products sold through the Program is inconsistent, monitoring and enforcement mechanisms are inefficient and ineffective, and Program outcomes are inconsistent with the Agency's mandate to promote the employment of artists and those skilled in crafts. In conclusion, the report established a series of recommendations to address these issues and close the gaps between SAP outcomes and the Agency's goals.

The current feasibility study centers on these recommended program changes. The study details legal ramifications, projects fiscal impacts, identifies administrative impacts, and summarizes Program artists' feedback.

The groundwork for Program improvement will be built by amending the Program Ordinance. The sections of the Program Ordinance can be separated into two categories, Sections 1-9 can only be changed through a popular vote. The Board of Supervisors can amend the remaining Sections 2401-2411.

## Recommendations

### *Improve Quality Control Mechanisms*

Implement juried-selection of Program Artists by SAP Public Panel

Establish a Peddler Permit referral process

## Key Insights

Improving quality control mechanisms include implementing a juried-selection process, updating the selection criteria to protect the markets from copyright infringement and the imitation of commercially available work, and modifying the appeal process to establish the Arts Commission as the final arbiter of licensing appeals. Updated selection criteria must remain content neutral and allow Artists to sell a diversity of goods across a variety of price points.

## Necessary Actions

Ordinance Section 3 (Application), Section 4 (Examination), Section 6 (Certificate Fee; Period), and Section 2409 (Appeals to Board of Permit Appeals) will all need to be amended to make these Program changes.

### *Implement Contemporary Art Market Structure*

Establish Market Clusters

Design & Implement Promotion Strategy

Establish Gallery Program

Change Program Name to reflect Program purpose

Implementing a contemporary art market structure hinges on finding a balance between Program artists' desires, the Agency's capacity and the Program's design. Community desires for ever increasing vendor spaces, a daily market schedule, and a flexible quarterly fee schedule must be reconciled with existing Program resources as the agency works to consolidate selling spaces into market clusters, budget for an onsite market manager, promote and re-brand the markets under a new program name that clarifies the program purpose to the public.

Ordinance Section 2404.2 (Fee Setting Procedure), Section 2401 (Additional Definitions), Section 2406 (Lottery) must be amended to make these Program Changes.

### *Enhance Program Services*

Establish Capacity Building & Technical Assistance Component

The capacity building and technical assistance components received a lukewarm response from Program artists. Nonetheless, implementing this recommendation will be an easy lift for staff with little or no impact on the Program budget.

This recommendation could be pursued on a temporary basis to test for Participant response and interests.

## Introduction

The San Francisco Arts Commission is in the midst of implementing the Agency’s 2014-2019 Strategic Plan. The May 2015 Street Artists Licensing Program (SAP) evaluation report, “Revitalizing an Urban Arts Market,” was the first step to bring the SAP into alignment with the Agency’s plan for the future. The report identified program strengths and three critical issues: the quality of products sold through the Program is inconsistent, monitoring and enforcement mechanisms are inefficient and ineffective, and Program outcomes are inconsistent with the Agency’s mandate to promote the employment of artists and those skilled in crafts. In conclusion, the report established a series of recommendations to address these issues and close the gaps between SAP outcomes and the Agency’s goals.

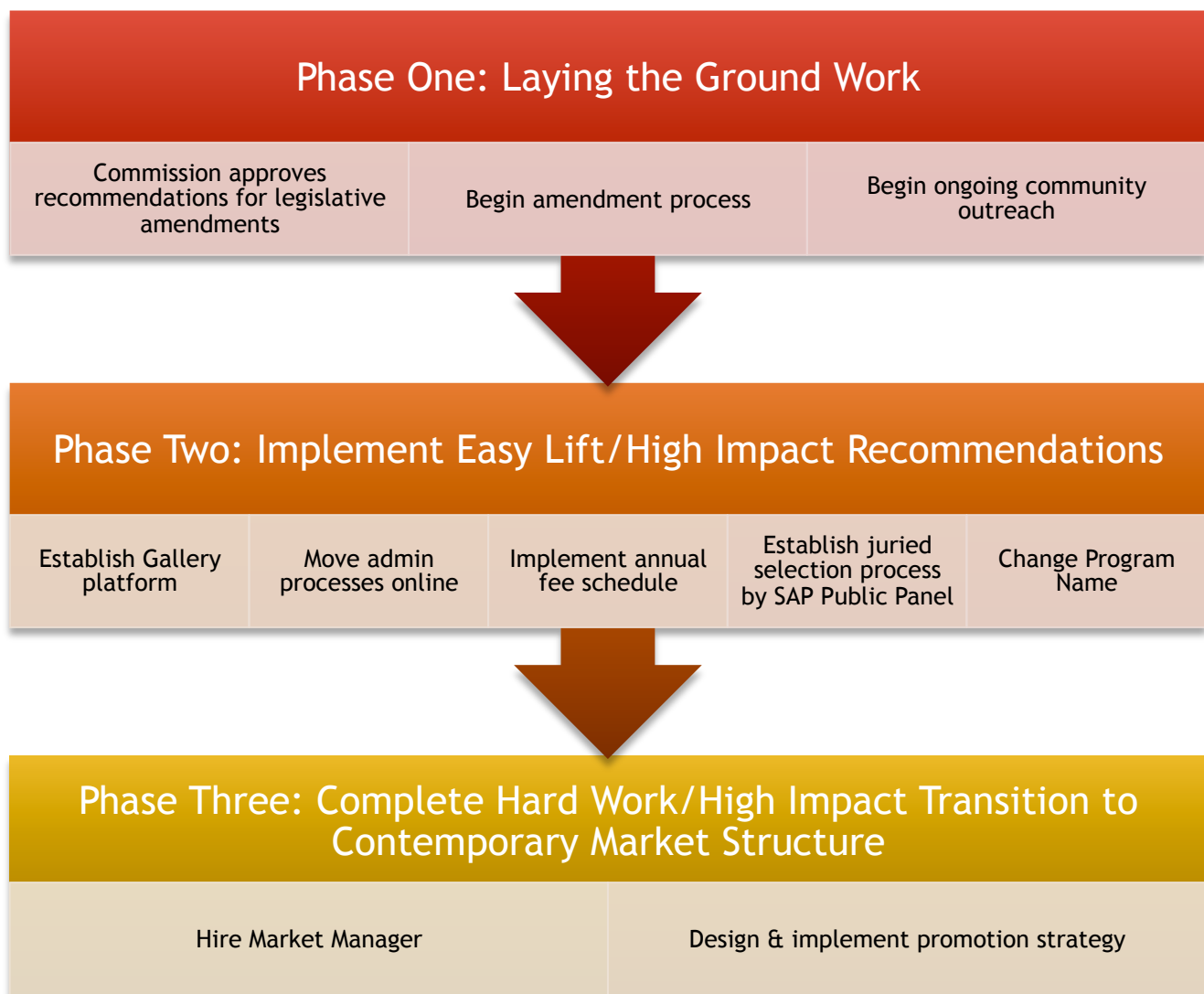
The current feasibility study centers on these recommended program changes. The study details legal ramifications, projects fiscal impacts, identifies administrative impacts, and summarizes Program artists’ feedback. One of the key insights from the analysis is that some Community members’ desires are not compatible with the Agency’s capacity and the Program’s design. Although the Agency’s goals to improve program outcomes largely align with community requests, some of the specific opportunities the Agency has to make cost-effective changes and improve administrative efficiency are in conflict with Community desires.



It is imperative that the Agency augments some of the evaluation recommendations and that Program Artists compromise some of their demands in order to successfully implement vital Program changes within the administrative and fiscal bounds of the Program. This analytical phase is a key step in the creation of a realistic work plan that considers all the various opportunities and

challenges that are sparked by impending Program changes and addresses potential conflicts by outlining necessary compromises and augmentations to the Program recommendations detailed in the Evaluation report.

In addition to an analysis of the implementation feasibility of each recommendation, this report outlines a step-by-step work plan to revitalize the SAP and close the gaps between Program outcomes and the SFAC’s priority goals. The work plan consists of three phases:



## Feasibility Analysis

The competing goals of the Agency and community stakeholders result in tensions that fall into three categories: financial considerations, staffing constraints, and community impact concerns

### Financial Considerations

The current Program ordinance designates a cost-neutral framework for the Program - that is the Program fee revenue must cover Program costs. Currently, Program costs far outstrip the revenue

Focus group participants explained that Program artists often utilize the low season to produce inventory and/or travel to outside art markets and festivals.

collected through the flexible quarterly fee schedule, a clear violation of the current legal requirement. The quarterly payment schedule allows Participants to pay for three months at a time. This flexibility gives participants a license to sell during the markets high season and the option to let their license lapse during the markets low season. Unfortunately, the cost of running the program does not change with the seasons and the quarterly fee schedule yields almost half the fee revenue that an annual fee

schedule would provide. Other municipal art market programs address these seasonal fluctuations by increasing the fee to sell during the high season or suspending the art market during the low season.<sup>1</sup>

The SFAC can address this current deficit in fee revenue by moving to an annual fee schedule. An annual membership fee schedule would greatly increase licensing revenue without increasing the Program fee. If an annual membership fee schedule is instituted in place of the current quarterly fee schedule, and average participation numbers meet or exceed the FY 2015 average of 361 artists, fee revenue would increase from the FY 2015 sum of \$124,639 to a sum of \$236,665. This figure accounts for approximately 30 Veteran fee waivers. Implementing an annual fee schedule will decrease the Program's budget deficit without increasing Program fees for Participants. Participants will continue to enjoy the flexibility of an everyday, year round marketplace for approximately \$1.95 a day. This fee is far below the National average of \$20.60 a day.<sup>2</sup>

Program improvements will increase Program costs even further. For example, hiring a full time market manager will greatly improve the quality of the markets. The onsite manager will be responsible for the daily monitoring and enforcement of Program regulations and will act as an information resource for Market visitors. In addition, the Market Manager will eliminate current conflict of interest issues that are raised by the volunteer system. However, the additional cost to

<sup>1</sup> The City of Portland, Oregon collects a fee of \$80 per weekend during the low season (February 1 - May 8 and September 19 - December 24) and collects a fee of \$95 per weekend during high season (May 9 - September 18). The Salt Lake City, Utah municipal market is open on Saturdays during the high season (June- October) and suspended for low season (November - May).

<sup>2</sup> Based on a survey of municipal art markets in Salt Lake City, Portland, Santa Barbara, El Paso, and Missoula.

the Program cannot be absorbed by the quarterly fee-schedule that Program artists enjoy. A third staff person would cost the Program approximately \$100,000 annually.

SFAC branded signage at the Market areas will improve public perception of the Markets. Outreach to hotels, tour companies, travel websites, etc. will increase tourist's awareness of the Markets and increase the number of travelers who visit the Markets. The cost of promoting market clusters will vary with the promotion strategy. Branding market clusters with banners, portable signs, and providing re-usable bags to market patrons will have an approximate budget impact of \$1360.<sup>3</sup>

One Program artist suggested that the SFAC purchase SAP tote bags. The re-usable tote can be designed by a Program artist and given to patrons of the Art markets. Patrons will promote SAP whenever they wear their bag.

### Staffing Constraints

Other tensions arise from the current demands on staff time. Presently, approximately 60% of the Program Assistant's work hours are divided between the administrative tasks necessary to process fees, issue licenses, schedule and provide support for artists' screenings, and manage the miscellaneous correspondence associated with each of these tasks. The remaining work hours are spent on regulation enforcement and handling public document requests. Simplifying the application review and fee collection to a quarterly schedule will increase administrative efficiency. Moving the application submission and fee payment process online will compound this gain in efficiency. The amount of time necessary to manage these administrative tasks will be minimized.

The current staff has the capacity to manage the Ordinance amendment process and implement a marketing strategy. This process will include drafting amendments and managing community outreach. Current staff members have the capacity to perform Market Manager duties which include enforcing program regulations at the marketplaces, providing information to market visitors, and managing lottery process. However, Program staff are burdened by an almost daily barrage of public document requests. These time-consuming requests originate from only a handful of Program participants yet they monopolize staff work hours outside of the time spent on basic program maintenance. There is simply not enough time for staff to respond to these requests and manage the implementation of Program improvements, designate a fulltime staff member to monitor several market sites, all the while maintaining a 7-day weekly market schedule. These constant sunshine requests are one of the main roadblocks on the path to improving the Street Artists Program.

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<sup>3</sup> Approximately \$130 per large vinyl banner, \$10 for small, portable signs, \$2 per printed tote bag. Two large banners, 10 small signs, and 500 tote bags will have a budget cost of \$1360.



## Community Impact Concerns

The Evaluation Report identified several opportunities for the Agency to make cost-effective, efficient Program improvements. For example, shifting to a 3-day market schedule and limiting the number of market sites. In addition, moving to an annual fee schedule would greatly increase licensing revenue without increasing the Program fee. However, Program artists have made it clear that the daily market schedule is central to their ability to make a living through the program, the flexible fee schedule makes the Program more affordable, and any reduction in the number of market sites to less than 3 may lead to an oversaturation of artists selling in a single location, the result of which could be even more decreasing sales.

Limiting market days will have potentially negative impacts on artists' business. The daily market schedule allows artists to maintain the flexibility that is vital to running a business that depends on the whims of the weather, tourist seasons, conferences, and festivals. Maintaining a daily market schedule is of critical importance to Program artists. Transitioning to an annual fee structure will expand SFAC capacity to make key Program improvements (i.e. implementing a promotional strategy, hiring a Market Manager, etc.) and potentially maintain the daily market schedule.

Improving quality control mechanisms include implementing a juried-selection process, updating the selection criteria to protect the markets from copyright infringement and the imitation of commercially available work, and modifying the appeal process to establish the Arts Commission as the final arbiter of licensing appeals.

Updated selection criteria must remain content neutral and allow Artists to sell a diversity of goods across a variety of price points. Any regulation of public sidewalks must be content neutral. The current examination process is legally content neutral but fails to differentiate professional artists from vendor entrepreneurs. The new criteria used by the Public Panel must be content neutral as well. New content neutral review criteria can include provisions to disallow copyright infringement, the imitation of commercially available work, and maintain the diversity of market goods. In addition, the Panel should be mindful to consider that Artists must sell work at a variety of price points in order to make a living at Market. Any consideration of quality should bear this fact in mind.

Focus Group participants discussed the arduous nature of their Market work, the back-breaking reality of carrying display materials and the overall fatigue that comes with working on a busy San Francisco sidewalk or plaza. The cumulative impact can be debilitating. Many artists create sustainable work schedules by never working two days in a row, or taking a week off after a certain number of days at their booth. The daily Market schedule allows Artists to maintain this flexibility and sustain their businesses.



Establishing markets clusters will concentrate traffic to artists' kiosks. Artists selling at these markets benefit from their proximity to other vendors - the market model breeds competition and cooperation, and creates a destination that attracts large numbers of patrons. Implementing a simplified market model has the potential to improve staff's quality control efforts, simplify Program promotion, and increase artistic productivity and efficiency. Program staff will be able to focus their monitoring efforts on three clearly demarcated markets rather than spot-checking the various clusters of selling areas that are currently dispersed across the city. Investing in creating a Market cluster at Hallidie Plaza may prove difficult. Participants' voiced valid concern that the Powell BART Station is a physical barrier to creating a Market enclave. An alternative would be to concentrate investment in the two existing Markets at Fisherman's Wharf and Justin Herman Plaza.

The Focus Group was an ideal environment to encourage a diversity of voices to join the conversation of improving the Street Artists Program. Participants were given equal space to share their perspective and no one was allowed to dominate the conversation. The SFAC does not have the resources to manage on-going focus groups but they can increase the productivity of Commission Meetings by reminding members of the public that personal attacks are irrelevant and inappropriate, encourage new voices to share their insights, and making space for artists to share productive solutions to Program issues.

Community insight and cooperation will prove immeasurably important as the SFAC moves forward with these Program improvements. Every effort must be made to include Program participants in the implementation process and insure that all participants are accurately informed of impending changes. The SAP sub-committee can use existing public meeting times to update artists and encourage productive discussions of proposed Program improvements. Currently, public meetings often feature the same few participants who ensure that public comment quickly devolves into petty personal attacks. The Commission has the opportunity to encourage broader

community participation and support stakeholders in engaging in productive discussion. Inevitably, the usual characters will choose to voice personal grudges and air private grievances, indeed those three minutes are their own. When these individuals succeed at setting the tone of every meeting - tense and negative - the meeting room becomes a place that no one wants to be, where one must be brave to voice one's opinion lest one be bullied next. Commissioners have the opportunity to set the tone at every meeting, encourage a diversity of new voices to join the conversation, and remind the public that although personal attacks may be legally protected during public comment, they are destructive and discouraged. In the end, it is up to the community of artists to participate in productive discussions and discourage their peers from hindering democratic debate.

## Implementation Work Plan

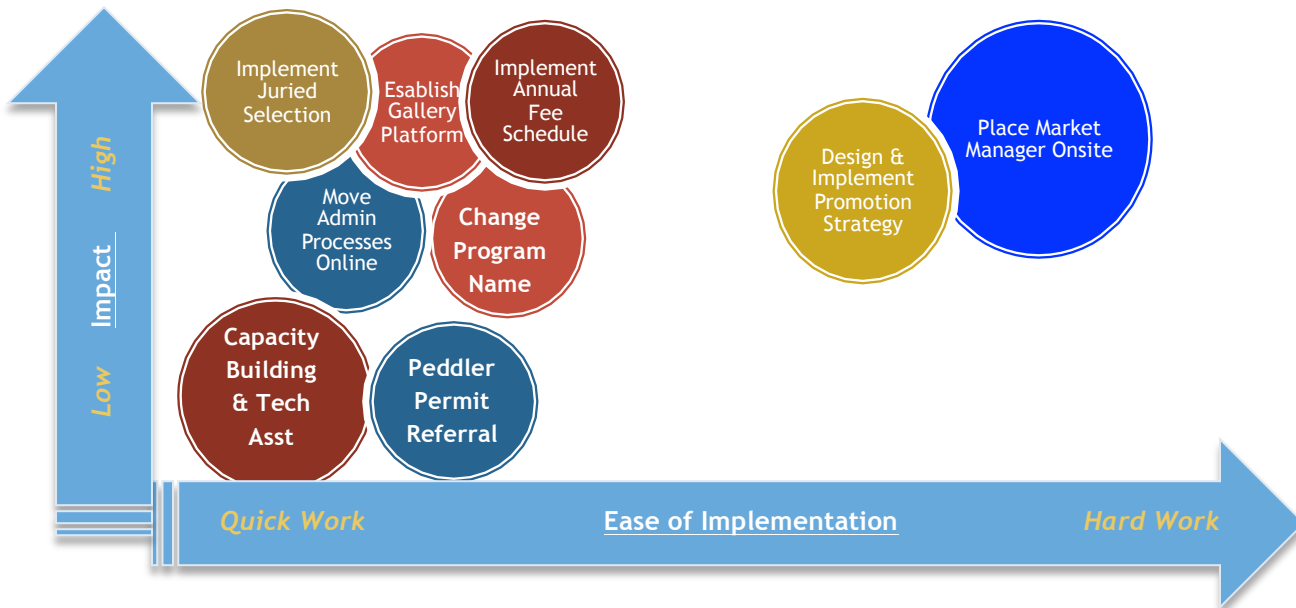
### Laying the Groundwork with Legislative Amendments

We now know that several of the recommendations detailed in the Evaluation Report must be augmented in order to mitigate the tensions that arose from these competing goals & desires. However, one recommendation that cannot be compromised is the need to amend the Program Ordinance. Although a few recommendations can be implemented without changing the language of the ordinance, for example, vendor entrepreneurs can be referred to the Peddler Permit program but without changing the Program Ordinance - these vendors will still be eligible for a Street Artists license unless the Ordinance is amended

The amendment process can be initiated by three different people/groups: a member of the public, the Mayor, or four or more members of the Board of Supervisors. The sections of the Program Ordinance can be separated into two categories, Sections 1-9, which constitute the original Ordinance, can only be changed through the popular vote. The Board of Supervisors must amend the remaining Sections 2401-2411.

### Phasing in Change

Aside from changing the ordinance, the remaining recommendations can be categorized according to how difficult they will be to implement and how greatly their implementation will improve Program outcomes.



Moving forward, the Agency should focus on those recommendations that will have a high impact, even if they will require substantial staff time to successfully implement. I recommend the following work plan for the Agency:

**Phase One:** Phase one should consist of laying the groundwork for Program improvement. This work includes the Arts Commission approving recommendations for legislative amendments, pursuing the amendment process, and managing on-going community outreach to inform and include stakeholders in the legislative process.

**Phase Two:** Phase two should focus on those recommendations that will be a relatively easy lift for staff, with a high impact on improving Program outcomes. These include establishing the gallery platform, moving administrative processes online, moving to an annual fee schedule, implementing Public Panel Review, and changing the program name to better reflect the Program purpose.

**Phase Three:** Phase three should consist of completing the hard work of moving to a contemporary market structure by placing a market manager at the Artists market, and implementing a promotion strategy to improve public perception of the Program and increase the number of market visitors.

**Optional Phase:** The remaining recommendations are optional. The analysis shows that many vendors may not utilize the Peddler Permit Referral, and the capacity building component received a lukewarm response from Program artists. Nonetheless, it will be relatively quick work to implement these recommendations. These recommendations could be pursued on a temporary basis to test for Participant response.

## Appendix I: Methodology

The evaluation process began with the review of relevant program documents including Program staffs' job descriptions, California case law, SFAC budgets, the municipal code, and the Street Artists' Program Handbook. Interviews were conducted with Agency staff and the Deputy City Attorney. A focus group was held with a diverse group of Program artists to gather information on the broad range of potential impacts that Program realignment will have on the community of Program participants. Topics covered with interviewees and focus group participants included the current staff capacity to implement recommended changes, the potential benefits of each recommendation, the potential negative consequences of each recommendation, and alternative recommended changes.

Key Questions	Data Gathering Method
Does the Program Ordinance allow for each recommendation to be implemented legally?	Document Review; Interviews
Which, if any, sections of the Ordinance need to be amended to implement recommendations?	Document Review; Interviews
What are the political considerations of changing the Program Ordinance?	Document Review; Interviews
How will Program realignment impact the Agency (administratively and fiscally)?	Document Review; Interviews
How will Program realignment impact Program Artists (financially and professionally)?	Focus Group Discussion
Which recommendations can be implemented in the short, medium, and long term?	Document Review
What are the staff qualifications necessary for successful implementation of each recommendation?	Document Review, Interviews

## Appendix II: Resources

Bass, J. & Lazar, H. (2008, August). Street Artists Program: Participant Handbook. San Francisco Arts Commission

Become a Vendor - Portland Saturday Market.

<http://www.portlandsaturdaymarket.com/vendors/become-a-vendor/> 12 July, 2015

El Paso Art & Farmers Market. <https://mcad.elpasotexas.gov/art-and-farmers-market>  
13 July, 2015

Faust, Kate L. "Revitalizing an Urban Arts Market: An Evaluation of the San Francisco Arts Commission's Street Artists Licensing Program." (2015): n. pag. 13 May 2015. Web. 25 June 2015.

"Legislative Process Handbook (For City Departments)." City and County of San Francisco Board of Supervisors, 28 Feb. 2011. Web. 15 July 2015.

Mathes, Christina A. "Bery v. New York: Do Artists Have a First Amendment Right to Sell and Display Art in Public Places," *Jeffrey S. Moorad Sports Law Journal*: Vol 5: Iss 1, Article 1. 1998

Missoula People's Market. <http://www.missoulapeoplesmarket.org/> 13 July, 2015

"Proposition C - Election Sunshine/ Ballot Reform." *Voter Guide*. SPUR, n.d. Web. 15 Aug. 2015.

"Rules of Order, Board of Supervisors, City and County of San Francisco." City and County of San Francisco Board of Supervisors, 29 July 2014. Web. 20 July 2015.

Salt Lake City Art Market Booth Application. <https://www.zapplication.org/event-info.php?ID=4015>  
13 July, 2015

Santa Barbara Art Walk.

<http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=51138>  
13 July, 2015

San Francisco Street Artists Guild v. Scott. Civ. No. 32355. Court of Appeals of California, First Appellate District, Division Four. March 1, 1974.

The Street Artists Ordinance, San Francisco Police Code Article 24, Section 2400.