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June 22, 2010

**Hon. James J. McBride**  
**Presiding Judge, County of San Francisco**  
**Superior Court of California**  
**400 McAllister St**  
**San Francisco, CA 94102**

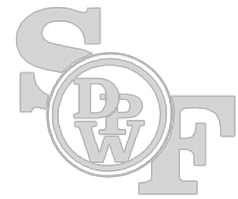
*Ref: 2009-2010 San Francisco County Civil Grand Jury Report*  
*“Americans with Disabilities Act: Is San Francisco in Compliance”*

**Dear Judge McBride:**

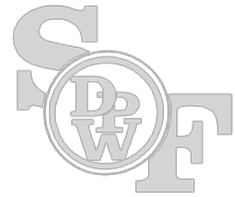
I write to provide response to the Findings and Recommendations of the subject report. I want to thank you and the Grand Jury for your attention to the important matter of providing access to people with disabilities. Provision of access is something that the city and the Department of Public Works consider to be a high priority. We are proud of our efforts and accomplishments in this area and will continue our work to enhance disabled access throughout the City, including the public rights-of-way.

Page 15 of the report identified recommendations 3, 4, and 5 as requiring response from the Department of Public Works. Following are our responses.

	<b>Findings</b>	<b>Recommendations</b>
Civil Grand Jury	3. Currently only issues involved with Title II compliance are handled by the Grievance Process. The likelihood of disabled citizens requiring an alternative for and assistance in filing concerns outside of Title II is extremely high. The only alternative for the aggrieved is litigation at great expense in both time and resources, or filing a complaint with the DOJ. It is estimated to cost about \$750,000 to expand the Grievance Procedure to cover private sector complaints.	3. By January 2011, the MOD in association with City departments' ADA Coordinators should initiate a study to determine the feasibility of the expansion of the grievance procedure to incorporate private sector ADA compliance issues as an alternative to litigation.
<i>DPW response</i>	Partially disagree. The finding is correct that the City receives citizen complaints that fall outside the scope of Title II. However, the City does provide other avenues for citizens that may potentially help them avoid litigation. For example, the Human Rights Commission assists	Will not be implemented. This recommendation falls outside the responsibility of DPW. DPW defers to the responses of MOD and the Mayor's Office.



	the public in addressing grievances regarding access issues in public accommodations.	
Civil Grand Jury	4. The Facilities Transition Plan (FTP) is comprehensive and is updated periodically. Over two thirds of the plan has been accomplished, with work on the final portion underway. The capital plan for the City allows for the continued work, especially regarding curb cuts and sidewalk issues, but extends the costs over the next twenty to twenty five years. Current cost estimates total over \$500,000,000 with more than half of the sum originating from public sources. These sources are varied, and come from Federal, State, and local coffers via myriads of programs, many with specific use criteria. Even with all known sources, the expenditures far exceed available funds. Of critical importance is the need to maintain consistent levels of funding, without which experienced staff will be lost with detrimental impact on their programs.	4. San Francisco should obtain and distribute the needed funding through all available and creative means including targeted bond issues to accelerate the achievement of compliance goals in ten years. Consistent funding levels must be maintained in order to retain, develop, and expand the pool of valuable experienced personnel.
<i>DPW Response</i>	Partially Disagree. DPW will focus on the public rights of way in its response to this finding. DPW agrees it is of critical importance to maintain consistent levels of funding in order to maintain experienced staff. In the case of the curb ramp program this is especially true due to the fact that the lion's share of the program cost is professional engineering and skilled labor, not materials.	Already implemented. The recommendation has been implemented in recent years, as the City has consistently allocated significant funds through its Ten Year Capital Plan and annual capital budget process. The City has used numerous funding sources for curb ramps and sidewalks, including general operating funds, sales tax revenues, and debt financing. The City will continue to pursue all viable means to continue funding in a manner that is as consistent from year to year as possible and in conformance with the DPW ADA Transition Plan for Curb Ramps and Sidewalks.
Civil Grand Jury	5. The City incurs significant risk and liability from the insufficient monitoring of incursions into the public right of way and the maintenance of a clear-path-of-travel. The DPW is responsible for the investigation and enforcement of temporary and permanent sidewalk incursions involving the entire City. The majority of infractions are due to temporary barriers incorrectly erected. Over 1000 complaints are on file at any given time, and more	The City should pursue full enforcement and monitoring of incursions to the public rights of way, especially with regards to temporary sidewalk incursions. Staffing levels must be maintained to address and complete inspections and investigations promptly and to eliminate backlogged cases.



	<p>than 400 new complaints are received weekly. The team of inspectors has been unable to keep pace with and process these complaints. Delays in the correction of incursions can lead to lawsuits.</p>	
<p><i>DPW Response</i></p>	<p>Partially disagree. The majority of sidewalks are maintained by the fronting property owner. The regulatory responsibility rests with the City. The City inspects all sidewalks for compliance with applicable maintenance and accessibility on a 25 year cycle. Additionally, the City responds to requests for action to address sidewalk defects, lack of accessibility (either temporary or permanent in nature) and use of the sidewalk. Over 1000 complaints are on file at any given time, and more than 400 new complaints are received weekly. The City is doing an effective job, with the resources available, to monitor incursions in the public right of way. DPW has no information that would confirm the finding that delays in corrections of incursions can lead to lawsuits.</p>	<p>Recommendation requires further analysis. DPW vigorously pursues enforcement and monitoring of the public right of way. However, staffing levels are dictated by many factors and given the current economic climate, the city and DPW must consider their multiple obligations to the public, including critical health and safety issues, when setting staffing levels for sidewalk inspection. Notwithstanding diminishing resources, DPW has in place its Sidewalk Inspection and Repair Program (SIRP) that allows DPW to proactively inspect and repair city sidewalks, in addition to its program for responding to individual complaints. The program is running well and has resulted in 40% to 45% fewer complaints in the areas where SIRP has been implemented.</p>

I hope this information is helpful. Please do not hesitate to contact me should you require any further information.

Sincerely,

**Edward D. Reiskin**  
**Director**

Cc: Board of Supervisors  
 Grand Jury Office