

File No. 100943

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight Date July 22, 2010

Board of Supervisors Meeting Date _____

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Completed by: Alisa Somera Date July 16, 2010

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Board of Supervisors Response to the 2009-2010 Civil Grand Jury Report Entitled
2 "Americans With Disabilities Act: Is San Francisco In Compliance?"]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
4 **and recommendations contained in the 2009-2010 Civil Grand Jury Report entitled**
5 **"Americans With Disabilities Act: Is San Francisco In Compliance?"**
6

7 WHEREAS, Under California Penal Code Section 933 et seq., the Board of
8 Supervisors (BOS) must respond, within 90 days of receipt, to the Presiding Judge of the
9 Superior Court on the findings and recommendations contained in Civil Grand Jury Reports;
10 and
11

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

18 WHEREAS, The 2009-2010 Civil Grand Jury Report entitled "Americans With
19 Disabilities Act: Is San Francisco In Compliance?" is on file with the Clerk of the Board of
20 Supervisors in File No. 100292, which is hereby declared to be a part of this resolution as if
21 set forth fully herein: and

22 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
23 to Findings Nos. 1, 2, 4, 5 and 6 as well as Recommendations Nos. 1, 2, 4, 5 and 6 contained
24 in the subject Civil Grand Jury report; and
25

1 WHEREAS, Finding No. 1 states: "San Francisco is vulnerable to litigation for non
2 compliance with Title II mandates of the ADA;" and

3 WHEREAS, Recommendation No. 1 states: "The City Attorney's Office should assess
4 the liability and risk to the City for the incomplete level of Title II compliance, and report its
5 findings to the Mayor and BOS by October 31, 2010;" and

6 WHEREAS, Finding No. 2 states: "In response to the ADA mandates, a Grievance
7 Procedure has been developed for intake, investigation, and referral of citizens' Title II
8 compliance issues. Complaints that are referred to the appropriate departments have already
9 been processed and verified as valid, and assistance to the affected departments in producing
10 appropriate responses is available. This process significantly reduces the cost of the
11 investigation of a complaint and the construction of a viable response by that department. The
12 level of complaints is expected to increase by as much as three fold as the availability of the
13 grievance process becomes better known in the community. The budget for this work was
14 reduced for the current fiscal year (2009-2010) resulting in the lengthening of the time to
15 complete the process and generating a backlog of cases. The sooner a complaint is
16 processed, the less liability and risk exposure there is for the City. Delays drive up the costs
17 of response and can encourage litigation;" and

18 WHEREAS, Recommendation No. 2 states: "San Francisco should expand the
19 Grievance Procedure to the level necessary for the "prompt and equitable" resolution of ADA
20 complaints;" and

21 WHEREAS, Finding No. 4 states: "The Facilities Transition Plan (FTP) is
22 comprehensive and is updated periodically. Over two thirds of the plan has been
23 accomplished, with work on the final portion underway. The capital plan for the City allows for
24 the continued work, especially regarding curb cuts and sidewalk issues, but extends the costs
25 over the next twenty to twenty five years. Current cost estimates total over \$500,000,000 with

1 more than half of the sum originating from public sources. These sources are varied, and
2 come from Federal, State, and local coffers via myriads of programs, many with specific use
3 criteria. Even with all known sources, the expenditures far exceed available funds. Of critical
4 importance is the need to maintain consistent levels of funding, without which experienced
5 staff will be lost with detrimental impact on their programs;" and

6 WHEREAS, Recommendation No. 4 states: "San Francisco should obtain and
7 distribute the needed funding through all available and creative means including targeted
8 bond issues to accelerate the achievement of compliance goals in ten years. Consistent
9 funding levels must be maintained in order to retain, develop, and expand the pool of valuable
10 experienced personnel;" and

11 WHEREAS, Finding No. 5 states: "The City incurs significant risk and liability from the
12 insufficient monitoring of incursions to the public right of way and the maintenance of a clear-
13 path-of-travel. The DPW is responsible for the investigation and enforcement of temporary
14 and permanent sidewalk incursions involving the entire City. The majority of infractions are
15 due to temporary barriers incorrectly erected. Over 1000 complaints are on file at any given
16 time, and more than 400 new complaints are received weekly. The team of inspectors has
17 been unable to keep pace with and process these complaints. Delays in the correction of
18 incursions can lead to lawsuits;" and

19 WHEREAS, Recommendation No. 5 states: "The City should pursue full enforcement
20 and monitoring of incursions to the public rights of way, especially with regards to temporary
21 sidewalk incursions. Staffing levels must be maintained to address and complete inspections
22 and investigations promptly and to eliminate backlogged cases;" and

23 WHEREAS, Finding No. 6 states: "The SFPD and MTA (MUNI) (DPT) have large
24 numbers of employees whose work involves a great deal of public contact. Assistance and
25 sensitivity training for the service to and interaction with disabled persons in a manner which

1 is effective and respectful of their rights, has yet to be fully developed. A successful
2 completion certificate would result in a higher degree of subject retention and grant a sense of
3 accomplishment when awarded. The MOD is working with these departments in order to do
4 so, but lacks the financial wherewithal needed for its accomplishment. Many viable models
5 exist which can be adapted to fit training goals, reducing development and implementation
6 costs;" and

7 WHEREAS, Recommendation No. 6 states: "By June 2011, the City should develop
8 training programs in areas of assistance and sensitivity to the needs of disabled persons,
9 especially at MTA and SFPD. These programs should be implemented by December 31,
10 2011;" and

11 WHEREAS, in accordance with Penal Code Section 933.05(c), the Board of
12 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
13 Court on Findings Nos. 1, 2, 4, 5 and 6 as well as Recommendations Nos. 1, 2, 4, 5 and 6
14 contained in the subject Civil Grand Jury report; now, therefore, be it

15 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
16 Superior Court that it [Response to Finding No. 1 and Recommendation No. 1] ;
17 and, be it

18 FURTHER RESOLVED, That the Board of Supervisors [Response to Finding
19 No. 2 and Recommendation No. 2] ; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors [Response to Finding
21 No. 4 and Recommendation No. 4] ; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors [Response to Finding
23 No. 5 and Recommendation No. 5] ; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors [Response to Finding
25 No. 6 and Recommendation No. 6] ; and, be it

1 FURTHER RESOLVED, That Pursuant to Penal Code Section 933.05(c), the Board of
2 Supervisors responds to the findings and recommendations to which it agrees by hereby
3 urging the Mayor to cause the implementation of accepted findings and recommendations
4 through his/her department heads and through the development of the annual budget.
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