

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

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

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

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

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

21 WHEREAS, the Mayor's Office, the Mayor's Office on Disability, The Mayor's Disability  
22 Council, the Department of Public Works, the City Attorney's Office, the Police Department  
23 and the Municipal Transportation Agency have each submitted its response to the subject  
24 Grand Jury Report, each departmental response is on file with the Clerk of the Board of  
25 Supervisors in File No. 100943, each departmental response is hereby declared to be a part

1 of this resolution as if set forth fully herein, and the Board has reviewed and considered each  
2 departmental response; and

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

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

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

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

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

1           WHEREAS, Finding No. 4 states: "The Facilities Transition Plan (FTP) is  
2 comprehensive and is updated periodically. Over two thirds of the plan has been  
3 accomplished, with work on the final portion underway. The capital plan for the City allows for  
4 the continued work, especially regarding curb cuts and sidewalk issues, but extends the costs  
5 over the next twenty to twenty five years. Current cost estimates total over \$500,000,000 with  
6 more than half of the sum originating from public sources. These sources are varied, and  
7 come from Federal, State, and local coffers via myriads of programs, many with specific use  
8 criteria. Even with all known sources, the expenditures far exceed available funds. Of critical  
9 importance is the need to maintain consistent levels of funding, without which experienced  
10 staff will be lost with detrimental impact on their programs;" and

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

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

24           WHEREAS, Recommendation No. 5 states: "The City should pursue full enforcement  
25 and monitoring of incursions to the public rights of way, especially with regards to temporary

1 sidewalk incursions. Staffing levels must be maintained to address and complete inspections  
2 and investigations promptly and to eliminate backlogged cases;" and

3 WHEREAS, Finding No. 6 states: "The SFPD and MTA (MUNI) (DPT) have large  
4 numbers of employees whose work involves a great deal of public contact. Assistance and  
5 sensitivity training for the service to and interaction with disabled persons in a manner which  
6 is effective and respectful of their rights, has yet to be fully developed. A successful  
7 completion certificate would result in a higher degree of subject retention and grant a sense of  
8 accomplishment when awarded. The MOD is working with these departments in order to do  
9 so, but lacks the financial wherewithal needed for its accomplishment. Many viable models  
10 exist which can be adapted to fit training goals, reducing development and implementation  
11 costs;" and

12 WHEREAS, Recommendation No. 6 states: "By June 2011, the City should develop  
13 training programs in areas of assistance and sensitivity to the needs of disabled persons,  
14 especially at MTA and SFPD. These programs should be implemented by December 31,  
15 2011;" and

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

20 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the  
21 Superior Court that it incorporates and adopts as its own the City Attorney's response to  
22 Finding No. 1 and Recommendation No. 1 of the subject Grand Jury Report; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its  
24 own the response of the Mayor's Office on Disability to Finding Nos. 2, 4 and 6, and  
25 Recommendation Nos. 2, 4 and 6 of the subject Grand Jury Report; and, be it

1           FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its  
2 own the response of the Department of Public Works to Finding No. 5 and Recommendation  
3 No. 5 of the subject Grand Jury Report; and, be it

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

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