BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

M E M O R A N D U M

TO: Tom Paulino, Liaison to the Board of Supervisors, Office of the Mayor
Jose Cisneros, Treasurer, Office of the Treasurer & Tax Collector
Carmen Chu, City Administrator, Office of the City Administrator
Katy Tang, Director, Office of Small Business
Kate Sofis, Director, Office of Economic and Workforce Development
Rich Hillis, Director, Planning Department
Patrick O'Riordan, Director, Building Inspection Department
Dr. Grant Colfax, Director, Department of Public Health
Carla Short, Interim Director, Department of Public Works
Jeanine Nicholson, Chief, Fire Department
Scott William, Chief, Police Department

FROM: Stephanie Cabrera, Assistant Clerk, Government Audit and Oversight Committee, Board of Supervisors

DATE: June 30, 2023

SUBJECT: Civil Grand Jury Report Received

The Board of Supervisors' Government Audit and Oversight Committee is in receipt of the San Francisco Civil Grand Jury (CGJ) report released June 21, 2023, entitled: "Taking Care of Business: San Francisco's Plan to Save its Small Businesses":

Pursuant to California Penal Code Sections 933 and 933.05, the departments must:

Respond to the report within 60 days of receipt, or no later than August 21, 2023.
For each finding the Department response shall:

1) agree with the finding; or
2) disagree with it, wholly or partially, and explain why.

As to each recommendation the Department shall report that:

1) the recommendation has been implemented, with a summary explanation; or
2) the recommendation has not been implemented but will be within a set timeframe as provided; or

3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

The Civil Grand Jury Report identified the following City Departments to submit responses:

- Board of Supervisors
- Office of the Mayor
- Office of the Treasurer & Tax Collector

Invited responses:

- Office of the City Administrator
- Office of Small Business
- Office of Economic and Workforce Development
- Planning Department
- Building Inspection
- Department of Public Health
- Public Works
- Entertainment Commission
- Fire Department
- Police Department

When submitting responses to the Civil Grand Jury, please forward a copy to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or email at: Stephanie.Cabrera@sfgov.org.

cc: Melissa Hernandez, Office of Chair Preston
Andres Power, Office of the Mayor
Amanda Fried, Office of the Treasurer & Tax Collector
Sophie Hayward, Office of the City Administrator
Vivial Po, Office of the City Administrator
Angela Yip, Office of the City Administrator
Kerry Bimbach, Office of Small Business
Alesandra Lozano, Office of Economic and Workforce Development
Monica Cruz, Office of Economic and Workforce Development
Anne Taupier, Office of Economic and Workforce Development
Dan Sider, Planning Department
Aaron Starr, Planning Department
Patty Lee, Building Inspection Department
Carl Nicita, Building Inspection Department
Sonya Harris, Building Inspection Department
Dr. Naveena Bobba, Department of Public Health
Greg Wagner, Department of Public Health

Sneha Patil, Department of Public Health
Ana Validzic, Department of Public Health
David Steinberg, Department of Public Works
Ian Schneider, Department of Public Works
John Thomas, Department of Public Works
Lena Liu, Department of Public Works
May Liang, Entertainment Commission
Theresa Ludwig, Fire Department
Lisa Ortiz, Police Department
Lili Gamero, Police Department
Rima Malouf, Police Department
Diana Olivia-Aroche, Police Department
Stacy Youngblood, Police Commission

Taking Care of Business

San Francisco's Plan to Save its Small Businesses

June 21, 2023

CITY AND COUNTY OF SAN FRANCISCO

2022–2023 CIVIL GRAND JURY

About the San Francisco Civil Grand Jury

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations based on its investigations. Reports of the Civil Grand Jury do not identify individuals by name, and disclosure of information about individuals interviewed by the Jury is prohibited.

—*California Penal Code §929*

2022–2023 Civil Grand Jurors

Karen Kennard Foreperson

Pierre Andrada
Richard E. Bogan
Robert J. Chansler
Jonathan E. Cowperthwait
Stan Feinsod
Lorna Hill
Laurance Lem Lee
Peter J. Logan
Marvin D. Norman
Byron Norris
Rick Ohlrich
Mijung Park
Matthew Rhoa
Barbara Savitz
Pauline Soffa
Marc Uscilka
Elwyn Wong
Marina Yu

Cover image from San Francisco Office of Small Business Annual Report FY 2019–20 to 2020–21, *page 4.*

Summary

San Francisco is a city of diverse neighborhoods with distinct personalities. Many cities welcome large chain businesses, but San Francisco has limited such businesses in many of its commercial districts. This has created a unique urban environment in which small businesses are particularly vital to our culture and identity. Most San Franciscans have a favorite local business that provides a special experience every time they stop in.

The City's small businesses drive its economy as well as its culture. In 2019, San Francisco was home to about 94,000 small businesses, which generated jobs for nearly 360,000 people.[1] Small businesses are often a path to economic security for immigrants, women and communities of color.[2] But San Francisco has not always made things easy for these entrepreneurs, who in years past had to navigate complex local zoning and permit regulations, which required multiple trips to various departments spread across the City, with minimal support from City officials and agencies. Media outlets reported on these problems, and San Francisco developed the unfortunate reputation of being inhospitable to small businesses. The 2020–2023 COVID-19 pandemic made matters worse and imposed additional hardships on these already vulnerable businesses.

---

[1] News Release, Office of the Mayor, "Mayor London Breed Issues Executive Order to Implement Proposition H for Small Businesses Within 30 Days,"November 19, 2020, https://sfmayor.org/article/mayor-london-breed-issues-executive-order-implement-proposition-h-small-businesses-within-30; Anoshua Chaudhuri, Cynthia Huie, Manpreet Kaur, and Adam Young, "*Impact of COVID-19 on Small Businesses in San Francisco,"* May 28, 2021, at 15, https://bit.ly/3pBPC6V.

[2] "Waiver of Permit, License and Business Registration Fees for Certain New Small Business Locations," San Francisco Ordinance No. 143-21, BOS File 210741, Section 1(e), Sept. 17, 2021, https://sfbos.org/sites/default/files/o0143-21.pdf

The 2022–23 Civil Grand Jury (the Jury) saw the City's small businesses struggling, but we also saw some reason for optimism. We were aware of two recent legislative reforms—First Year Free and Proposition H—that were designed to make it easier for small businesses to open and operate. First Year Free waived certain license, permit and business registration fees for small businesses during their first year of operation. Proposition H, passed by 60% of the voters in 2020, implemented zoning changes that made it easier for more small businesses to open and expand, and required streamlined, 30-day permit processing for eligible small businesses.

We set out to investigate how well these reforms are working, how effectively City departments are coordinating to implement them, and how well-informed the small business community is about these new benefits. We also considered whether there is more the City can do to support its small businesses.

We found that early results are promising, but much remains to be done. First Year Free and Proposition H were initially too limited in scope, and both programs have been expanded in an effort to reach more small businesses. Cooperation among the City agencies that support these programs is occurring more often, but implementation problems have occurred and there is a need for better inter-agency coordination. And the City must amplify its outreach efforts, because too few small businesses know about these programs that are designed to help them.

We also encountered a surprising challenge: While the First Year Free program collects detailed information about the number of small businesses enrolled in the program and the fees that have been waived, we simply do not know how many businesses have benefited from the reforms put in place by Proposition H. The main reason for this has been identified as a problem for at least ten years: many of the relevant City departments use different computer systems that do not share data, which makes data collection and tracking difficult or impossible.

The promise of Proposition H and First Year Free has yet to be fully realized. If San Francisco is serious about helping its small businesses, it must be equally serious

about implementing these programs, promoting them, and demonstrating that they are working. This report offers several workable Recommendations to help fulfill the promise of these programs. If implemented, they will extend these programs so more small businesses can benefit, fix their implementation problems, enable the collection of accurate data to evaluate their effectiveness, enable the technological integration of disparate and long outdated computer systems, improve coordination across the many City agencies that assist small businesses, and improve awareness about small business assistance programs within San Francisco and beyond.

Contents

Background 1
Discussion and Analysis 3
Historic Hurdles Faced By San Francisco's Small Businesses 3
The Devastating Impact of the Pandemic 4
San Francisco Takes Action 5
The Way It Was: The Small Business Journey 5
August 2020: The "One-Stop Permit Center" Opens 9
Figure 1: The Permit Center 10
November 2020: Proposition H (Save Our Small Businesses Initiative) 11
Proposition H's Requirement for Streamlined 30-Day Permit Processing 12
Proposition H's Elimination of Neighborhood Notification In Certain Areas 14
Figure 2: Neighborhood Notification Map 15
The Power of the "Principally Permitted" Designation 15
July 2021: First Year Free (FYF) 17
Figure 3: First Year Free Outreach Materials 17
August 2021: The Small Business Recovery Act (SBRA) 19
March 2022: OSB Small Business Permit Specialists Join the Permit Center 21
May 2022: DBI Adds Small Businesses Inspections Ambassadors Team 22
November 2022: First Year Free Is Expanded and Extended 22
May 2023: Proposition H "Alignment" and New Proposed Legislation 24
Figure 4: Map Showing 2023 Expansion 25
The Rocky Path to Reform: Implementation Successes and Challenges 26
First Year Free 28
FYF Aimed Too Low 28
FYF's "Opt-In" Requirement Leaves Some Small Businesses Behind 29
FYF Implementation Problems 30
Proposition H 32
Proposition H's Scope Was Too Narrow 33
The Proposition H 30-Day Timeline Can Be Confusing 34

The Success Story:
The Online Portal Tracks Proposition H Eligibility and Compliance 37
The Challenges: At The Permit Center, Proposition H Eligibility and Compliance is Estimated, but Not Tracked 40
No Screening for Proposition H Eligibility at the Permit Center 40
Incompatible and Outdated Computer Systems 40
An Imperfect Estimation Process 42
So, is Proposition H Working? 43
What Happens Next to Proposition H? 45
Coordination and Cooperation Across City Agencies 46
Integrated Technology 49
San Francisco's Small Business Assistance Initiatives Are Undermined by Inadequate Outreach 53
Findings and Recommendations 60
Required and Invited Responses 67
Required Responses 67
Invited Responses 67
Methodology 69
Glossary 70

Background

In late 2018, Jason, a young father of two, took the first steps toward realizing his dream: opening an ice cream shop in San Francisco. According to media reports,[3] Jason found a vacant location in the Mission District that had formerly housed a restaurant, which meant no structural changes or exterior modifications were needed. He signed a lease and hired an architect to draw up plans for minor upgrades, which he submitted in November 2019.

The Planning Department required Jason to notify the neighbors within 150 feet of the planned location, a process called "neighborhood notification." When a competing ice cream shop objected, Jason had to wait until June 2020—7 months after his plans were submitted—for a hearing before the Planning Commission. The Planning Commission voted unanimously to approve his project.

Two months later, in late August 2020, a plan reviewer gave Jason 30 comments on his architectural plans, which required sign-offs from a host of City departments. By December 2020, that review was complete, but Jason owed still more in permit fees. At that point, a year and a half after he signed a lease and over a year after submitting his initial plans, Jason had spent about $200,000 and faced over $100,000 more in construction costs. Jason decided to abandon his dream project, which had become a nightmare.

Jason's story caught the Jury's attention. We knew, of course, that many small businesses struggle to survive in San Francisco, for multiple reasons. We also understood that those familiar challenges had been compounded by the pandemic,

[3] Jason's story was covered extensively in the media. Heather Knight, "He spent $200,000 trying to open an S.F. ice cream shop, but was no match for city bureaucracy," *San Francisco Chronicle*, April 20, 2021, https://bit.ly/41u84fd; Gene Marks, "The ice cream owner who tried, failed – and now owes $200000," *The Guardian,* May 31, 2021, https://bit.ly/3pAbgIX.

which was particularly brutal for small businesses, especially in the downtown area. Finally, we were aware that San Francisco had adopted reforms designed to help the small business community, including Proposition H in 2020 and First Year Free (FYF) in 2021. We wondered whether those reforms have been effective and set out to investigate.

We found that much progress has been made in the years since Jason tried, and failed, to open his "dream" ice cream shop. If Jason were to open the same ice cream shop today in the same location, his story would have a happier ending. Under Proposition H, neighborhood notification is no longer required to open an ice cream shop in the location Jason selected, so he would not face neighborhood opposition, a lengthy delay, or a Planning Commission hearing. In addition, Jason's project would have qualified for streamlined 30-day permit processing under Proposition H. And under the First Year Free program, Jason's initial business registration fees, initial license fees, first-year permit fees and other applicable fees would be waived. If Jason had started his journey in January 2023, he could be selling ice cream today.

But we also found there is more the City can do to support its small businesses. This report explores what has been accomplished, and what additional steps can be taken to enable small businesses to open, expand and thrive.

Discussion and Analysis

Historic Hurdles Faced By San Francisco's Small Businesses

There is broad agreement that the survival of San Francisco's small businesses is essential to the City's economic well-being and its cultural identity.[4] Yet despite their importance to our economy, San Francisco has developed a reputation for being inhospitable to small businesses. Even before the pandemic, media reports noted the rising number of vacant storefronts[5] in San Francisco, interminable delays for permits while business owners navigated convoluted regulations, and the lack of coordination between City agencies.[6] In fact, a 2019 study by Arizona State University ranked San Francisco as the most difficult city in the country in which to do business.[7]

---

[4] The term "small business" is defined differently by different City agencies, for different purposes. As discussed elsewhere in this report, the First Year Free program defines an eligible small business by the dollar amount of gross receipts earned each year. Proposition H, as originally enacted, applied to businesses that were not "formula retail" (often referred to as "chains"). The San Francisco Office of Economic and Workforce Development (OEWD) and Office of Small Business (OSB) define small businesses as those with 100 or fewer employees. San Francisco Office of Economic and Workforce Development Strategic Plan, FY 2019-20, at 6, https://oewd.org/sites/default/files/Documents/OEWD_Strategic_Plan_FINAL.pdf.

[5] Of course, storefront vacancies happen for many reasons, some of which are outside the City's direct ability to control. For example, private landlords have a role to play in filling commercial vacancies and setting the market rates for commercial rent. The Jury is aware of, but did not investigate, the fact that San Francisco recently adopted a Commercial Vacancy Tax (a tax on keeping certain commercial space vacant for more than 182 days in a calendar year).

[6] Shwanika Narayan and Roland Li, "Opening a small business is about to get easier in San Francisco," *San Francisco Chronicle*, July 31, 2019, https://bit.ly/44UGTgE; Phil Matier, "SF takes its time OKing retail makeovers — look at all the empty storefronts," *San Francisco Chronicle*, April 3, 2019, https://bit.ly/3Bgxe6i.

[7] Doing Business North America, 2019 Report, 1st. Ed., at 12, Center for the Study of Economic Liberty, Arizona State University, https://dbna.asu.edu/reports/2019.

Individuals seeking to open a new small business or to expand an existing one faced particular challenges. These business owners, often strapped for time and money, had to navigate an onerous permitting process and a lack of coordination between City departments. In addition, neighborhood notification rules required by the Planning Code allowed individuals and even competing businesses to oppose new businesses, resulting in delays and expense even if the project ultimately won approval by the Planning Commission.[8]

The Devastating Impact of the Pandemic

In 2020, local small businesses that were already struggling were further devastated by the global pandemic. Mayor Breed issued a Public Health Order in March 2020, which forced the temporary closure of non-essential businesses. Overnight, shuttered storefronts became a common sight. San Francisco's small businesses, many of which had little or no economic reserves, were especially hard-hit. State and federal programs provided some economic relief, but many small businesses were forced to close, temporarily or permanently. The impact of the pandemic on San Francisco's small business community has been devastating to many, has varied by industry and by neighborhood, is difficult to measure, and may never be precisely known.

In early 2021, nearly a year into the pandemic, a study conducted by San Francisco State University found that only 21% of small businesses surveyed felt that San Francisco was a good place to own a small business, and only 12% agreed that San

[8] This investigation did not seek to compile data about the extent to which business competitors have been able to delay the opening of a nearby competing business, but we are aware of anecdotal examples. In addition to the story of Jason's failed ice cream store, an example that received media attention involved the so-called "falafel wars." Caleb Pershan, "Castro Falafel Shop Uses NIMBY Tactics to Keep Out Competitor," *Eater San Francisco,* October 21, 2019, https://bit.ly/3NZpnlh.

Francisco was doing a good job in supporting its small businesses.[9] But while this survey was being conducted, San Francisco was already taking action to help its small businesses. Indeed, the seeds of those efforts, though slow to germinate, had been planted years before the pandemic struck.

San Francisco Takes Action

Even before the pandemic, it had long been recognized that San Francisco's permit process simply took too long, which posed a particular hardship for those seeking to open or expand a small business. Historically, the process of opening a new small business, or expanding an existing one, involved a litany of convoluted procedures carried out by a host of poorly-coordinated City agencies, as briefly described below.

The Way It Was: The Small Business Journey

A business owner's journey often started with the Office of Small Business (OSB), a division of the San Francisco Office of Economic and Workforce Development (OEWD). Since its establishment in 2004, OSB has provided in-person guidance and published resources to help small business owners navigate San Francisco's complex business environment, both at its office in City Hall, and through its website. These resources include a helpful online guide describing each step involved in starting a business in San Francisco.[10] OSB is the central point of information for San Francisco's small businesses, offering business counseling, assistance with business plans and

[9] Anoshua Chaudhuri, Cynthia Huie, Manpreet Kaur, and Adam Young, "Impact of COVID-19 on Small Businesses in San Francisco," May 28, 2021 ("2021 SF State Survey"), at 38, https://bit.ly/3pBPC6V.

[10] Titled "Step by step guide to starting a business in San Francisco," this online guide offers tips regarding creating a business plan, financing and registering a business, and finding a location. https://sf.gov/step-by-step/step-step-guide-starting-business-san-francisco.

financing, and locating vacant commercial space that is zoned for the type of business an owner wishes to operate.

All new businesses, and new locations of existing businesses, are required to register with the SF Office of the Treasurer and Tax Collector (TTX), which collects the appropriate business registration and license fees each year. TTX assigns each new business a Business Account Number (BAN), and each business location also receives a Location Identification Number (LIN).[11]

Once registered, a small business had to navigate the complexities of zoning, permitting, and inspection. This required review and approval by multiple City departments. Until 2020, the various City departments involved in zoning and permitting were located in several different buildings scattered across the City.

San Francisco's zoning regulations are set forth in the SF Planning Code and administered by the SF Planning Department (Planning). The Planning Code lists the land use activities that are permitted (or restricted) for a specific location, as well as other regulations, such as maximum building heights. Planning reviews business projects and uses before construction or demolition can occur. If a new business or new location needed construction or renovation, one or more permits might be required. Compliance with fire, safety and other regulations, such as the Americans With Disabilities Act (ADA), must also be established. Many entertainment uses require entertainment permits. The Planning Department advises small businesses about all the permits they will need, depending on the scope of work, the zoning of the property, and the "uses" permitted within that area.

Many small businesses must apply for one or more building permits. Permits are likely to be required for activities such as new construction, demolition, interior remodeling, adding awnings, installing signage, performing seismic retrofitting, operating a boiler, and for installing or modifying plumbing, electricity or solar

[11] A Glossary of these and other terms is provided at the conclusion of this report .

service. These various building permit forms are processed by the Department of Building Inspection (DBI), which reviews every permit application for life safety and building code compliance.

DBI reviews simple permits "over the counter" (OTC), which means the permit application can be processed in person, while the customer waits. But DBI reviews more complex projects "in-house," which means the customer must leave the necessary forms and plans with DBI for processing, and must return at a later date to either proceed, or make necessary changes. DBI also performs on-site inspections and approvals of the actual construction or renovation work, in conjunction with other City agencies such as the Fire Department and the Department of Public Health (DPH). Most electrical, plumbing and mechanical work also requires inspection.

Beginning in 1996, when Section 311 of the Planning Code was adopted, many new small businesses or new business locations also required neighborhood notification. A notification requirement was triggered when a business applied for a building permit for a different business use at a location in certain areas of the City.[12] Whether notification was required depended on whether a project was proposed in a residential neighborhood or a commercial district, whether any proposed construction was minor or substantial, and in the case of commercial projects, whether the type of use (such as a bar, hair salon, liquor store or restaurant) was permitted in the particular district where it sought to open. These varying neighborhood notification requirements have been described as part of San Francisco's "proud tradition of safeguarding the unique character of its diverse neighborhoods and emphasizing community involvement in issues of neighborhood preservation."[13]

---

[12] San Francisco Planning Code, Article 3, Section 311.

[13] For example, see San Francisco Ordinance 215-07, BOS File No. 070213, amending Planning Code Sections 311-312, approved September 21, 2007, at page 1. https://sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances07/00215-07.pdf

When a project required neighborhood notification, the Planning Department mailed notices to residents and property owners located within 150 feet of the "subject property," as well as all registered neighborhood groups. This triggered a 30-day public review period, during which neighbors could voice concerns about the proposal, or request a "discretionary review" by the San Francisco Planning Commission.[14] Anyone receiving a notice was permitted to request a discretionary review. Discretionary review requests are resolved by the Planning Commission at a public hearing. For applications that received opposition or required a Planning Commission hearing, the owners were sometimes required to make revisions. Even if no revisions were needed, a project, even if eventually approved, could be delayed for several months or even longer. A 2019 study of commercial vacancies by the Budget and Legislative Analyst reported that the neighborhood notification process could add four to six months to the time a commercial storefront remains vacant.[15]

The neighborhood notification process could and did flag legitimate concerns, and the permit approval process addressed important issues like public safety and access for the disabled. But it was also apparent that navigating these complex procedures involving multiple agencies often took too long, which was a particular hardship for small businesses. Data from this time period show that the permit approval process could take, in total, between 180 and 270 days. A 2019 report analyzing commercial vacancies in the Upper Market/Castro area found that building permit applications for commercial uses took an average of 172 days to be issued.[16] The same report found that

---

[14] San Francisco Planning Department, "General Planning Information Handout: Neighborhood Notification," January 2019, https://sfplanning.org/sites/default/files/documents/publications/InfoPacket_Neighborhood Notification.pdf.

[15] "Commercial Vacancies in the Upper Market/Castro and City Permitting," San Francisco Board of Supervisors Budget and Legislative Analyst Policy Analysis Report at 14, Mar. 5, 2019, https://sfbos.org/sites/default/files/BLA.CommclVacancies.UMC_.Permitting.030519.pdf.

[16] "Commercial Vacancies in the Upper Market/Castro and City Permitting," San Francisco Board of Supervisors Budget and Legislative Analyst Policy Analysis Report at 3, Mar. 5, 2019, https://sfbos.org/sites/default/files/BLA.CommclVacancies.UMC_.Permitting.030519.pdf.

between 2015 and 2017, conditional use authorizations in certain districts took, on average, between 276 and 332 days to be approved.

This concern led City officials and agencies, even before the pandemic, to explore ways to ease this burden on small businesses. Those efforts ramped up during the pandemic, and are ongoing. What follows is a partial list of these reform efforts.[17]

August 2020: The "One-Stop Permit Center" Opens

After breaking ground in 2017, San Francisco opened its new "One-Stop Permit Center" in August 2020 at 49 South Van Ness Avenue. The new Permit Center brought together, for the first time in one location, teams from all of the separate City departments involved in enforcing zoning regulations and issuing building permits, including Planning, DBI, the Fire Department, the Department of Public Health (DPH), the Public Utilities Commission (PUC), and the Department of Public Works (DPW). Permit Center operations are overseen by the City Administrator. Although each City department at the Permit Center functions independently, the fact that they are housed together in one location has resulted in improved inter-agency collaboration and coordination.

[17] A complete list of programs available to San Francisco's small businesses is beyond the scope of this report. But we would be remiss not to acknowledge the impressive services and programs supported by the Office of Small Business and the Invest in Neighborhoods division (now called the Community Economic Development Team) within the Office of Economic and Workforce Development. These efforts include teams and programs such as the Small Business Assistance Center, the San Francisco Small Business Development Center, the SF Shines Storefront Improvement Program and the Storefront Vandalism Relief Grant program.

Figure 1: The Permit Center[18]

The new Permit Center offers many innovative services. These include an onsite Print Center, and the "QLess" customer notification and online waiting system. The Qless system allows visitors to check Permit Center wait times online, assigns customers to a place in queue with the appropriate department, and reduces customer time at the Permit Center.[19] These innovations are particularly helpful to small business customers, who often lack the time, experience and sophistication that was previously needed to navigate the arcane hurdles of zoning, planning and permitting across multiple departments in different buildings around the City.

[18] Photo credit: San Francisco Planning Department Annual Report, Fiscal Year 2020/21.

[19] News Release, Office of the Mayor, "Mayor London Breed Announces 28% Decrease in Processing Time for Over-the-Counter Building Permits to Speed Construction," March 16, 2022, https://sfmayor.org/article/mayor-london-breed-announces-28-decrease-processing-time-over-counter-building-permits-speed.

November 2020: Proposition H (Save Our Small Businesses Initiative)

Putting all the permitting agencies together in one building did not erase the burdensome impediments faced by small businesses in San Francisco. Enter Proposition H.

The path to Proposition H actually began years earlier. In 2015, the San Francisco Planning Department had begun developing procedures to streamline the permitting process for small businesses.[20] In December 2018, Mayor London Breed and then-Supervisor Vallie Brown introduced an ordinance to "reduce costs, barriers and time for small businesses" by easing San Francisco zoning codes and other restrictions.[21] By June 2020, after the Board of Supervisors failed to adopt this proposal, Mayor Breed introduced a ballot measure titled Proposition H, the "Save Our Small Businesses Initiative." Proposition H was designed "to streamline the process for new small businesses to open and make it easier for existing small businesses to operate and adapt." Proposition H had two stated priorities: to "eliminate bureaucracy in the permitting and inspection process," and to "modernize zoning along neighborhood commercial corridors."[22]

---

[20] In 2015, the San Francisco Planning Commission sought to expedite the permit process for small to mid-sized businesses with the "Community Business Priority Processing Program" (CB3P). Planning Commission Resolution No. 19323, February 12, 2015, https://sfplanning.org/sites/default/files/FileCenter/Documents/9387-19323%20-%20CB3P%20Resolution_20150212.pdf. The CB3P streamlined the "conditional use" process for certain small and mid-sized business applications. Among other things, projects that qualify for and enroll in the CB3P are guaranteed a hearing date within 90 days of filing. San Francisco Planning Department Checklist: "Community Business Priority Processing Program (CB3P) Eligibility," November 23, 2021, https://sfplanning.org/resource/cb3p-checklist.

[21] Shwanika Narayan and Roland Li, "Opening a small business is about to get easier in San Francisco," San Francisco Chronicle, July 31, 2019, https://bit.ly/44UGTgE.

[22] News Release, Office of the Mayor, "Mayor London Breed Introduces Ballot Measure to Support San Francisco Small Businesses," June 16, 2020, https://sfmayor.org/article/mayor-london-breed-introduces-ballot-measure-support-san-francisco-small-businesses.

Proposition H was approved by over 60% of San Francisco voters in November 2020.[23] In an impressive display of what can happen when multiple departments join forces with purpose, its key provisions were implemented within 30 days.[24] By its terms, the provisions of Proposition H can be expanded, but cannot be restricted, during the first three years after its effective date.[25] This three-year period will expire on or about December 18, 2023. After that date, Proposition H will remain in place unless action is taken to eliminate or restrict its provisions.

Proposition H introduced multiple reforms designed to help small businesses. Some provisions were focused on needs directly related to the pandemic, such as enabling spaces for outdoor dining and "pop-up" retail venues. Other Proposition H reforms had been in the works since before the pandemic and sought to address longer-term problems with San Francisco's complex permit process. Our investigation focused on two of those provisions: streamlined permit processing, and the elimination of certain neighborhood notification requirements. Each is discussed below.

Proposition H's Requirement for Streamlined 30-Day Permit Processing

As discussed earlier, the permit processing system in place prior to Proposition H could take months or years to navigate. Proposition H set out to change that timeline,

---

[23] The Planning Department web site provides a summary of the provisions of Proposition H, including the changes added when it was subsequently amended by the Small Business Recovery Act. https://sfplanning.org/save-our-small-businesses-initiative.

[24] News Release, Office of the Mayor, "Mayor London Breed Issues Executive Order to Implement Proposition H for Small Businesses Within 30 Days,"November 19, 2020, https://sfmayor.org/article/mayor-london-breed-issues-executive-order-implement-proposition-h-small-businesses-within-30.

[25] San Francisco Administrative Code, Appendix: Table of Initiative Ordinances and Policy Declarations, 11-03-2020, "Proposition H: Neighborhood Commercial Districts and City Permitting," Section 10, "Amendments and Related Legislation," http://files.amlegal.com/pdffiles/sanfran/2020-11-03-PropH.pdf.

by requiring streamlined, 30-day permit processing for eligible small businesses.[26] Proposition H required all City departments responsible for reviewing permit applications for the "establishment, modification and/or operation of a storefront commercial use[27] that is principally permitted[28] in a Neighborhood Commercial District or Neighborhood Commercial Transit District"[29] to develop a process for the coordinated and streamlined review of those applications.

Proposition H requires these departments, "to the maximum extent feasible," to complete the review of these permits "within 30 days of the date a complete application is submitted." If the review cannot be completed within 30 days, the applicant must be provided with an explanation of the reasons, including why a decision could not be made on the permit application, the necessary steps to complete the review, and the time needed to finalize the review.[30] To ensure that the 30-day permit processing deadline is met, Proposition H also imposed a requirement that where a city department makes a "significant error" late in the application process that affects the timeliness of the City's review, the review of that application must be

---

[26] San Francisco Business & Tax Regulations Code, Article 1, Section 32.

[27] The term "storefront commercial use" appears in Business & Tax Regulations Code, Article 1, Section 32. This Section codifies several of the key requirements and principles of Proposition H, including the 30-day permit processing timeline, prompt scheduling of inspections, conditional approvals where necessary changes are minor, and waiver of fees in case of department mistakes.

[28] The Planning Code divides the city into a number of *Districts*. For each district the code specifies the allowed *Uses* of a development site. If a Use is a principal permitted use, that use is permitted by right in that district. For example, "Small Scale Convenience Retail" is a principally permitted use in the "Mission Bay Residential Districts." San Francisco Planning Code, Article 9, Section 908, Tables 906-908. A conditional permitted use may be allowed in the district, but first requires approval from the Planning Department. For example, a "Kennel" is a conditionally permitted use in the "Outer Clement Street Neighborhood Commercial District"(but only in the first story–an upstairs kennel is not permitted!). San Francisco Planning Code, Article 7, Section 717, Table 717.

[29] For a definition of Neighborhood Commercial District and Neighborhood Commercial Transit District, see the Glossary.

[30] San Francisco Business & Tax Regulations Code, Article 1, Section 32(c).

expedited, and the department that committed the error "shall waive any fees applicable to the additional review."[31]

Proposition H's Elimination of Neighborhood Notification In Certain Areas

A second major change ushered in by Proposition H was the elimination of neighborhood notification requirements in many cases. As noted above, prior to Proposition H, when a businesses applied for a building permit to change the use[32] at a location within certain areas of the City, neighborhood notification was required, which triggered a public review process that could lead to lengthy delays. A 2019 study of commercial vacancies by the Budget and Legislative Analyst reported that the neighborhood notification process could add four to six months to the time a commercial storefront remains vacant.

Proposition H did not eliminate neighborhood notification entirely, but it eliminated notification requirements for certain projects in certain districts. Specifically, under Proposition H, if an applicant seeks a change in the use of a location to a "principally permitted use" in a Neighborhood Commercial District or a Neighborhood Commercial Transit District, that project will no longer be subject to neighborhood notification requirements, unless it involves "demolition, new construction, or alteration of buildings."[33] The elimination of many neighborhood notification requirements for principally permitted uses in these commercial districts was a significant change.

---

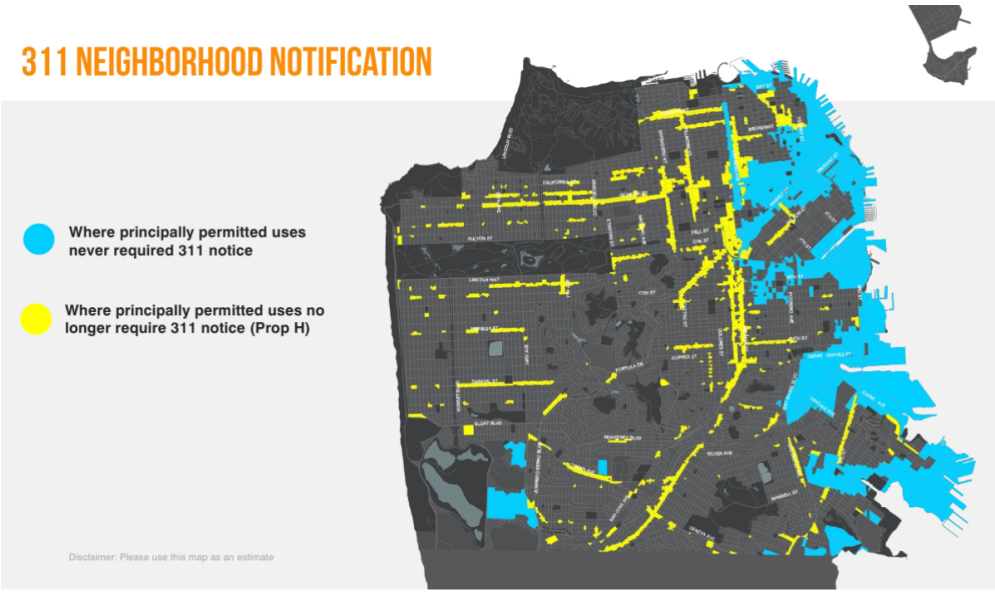
[31] San Francisco Business and Tax Regulations Code, Article 1, Section 32(f).

[32] The Planning Code specifies that a change to different use must be consistent with the current Code. Generally, principal permitted uses are by right, conditional permitted uses require formal approval/hearing, and other uses are forbidden. The Code has rules for when there is a main use, and an additional secondary use. San Francisco Planning Code, Article 1, Section 102.

[33] San Francisco Planning Code, Section 311(b).

The map below shows, in yellow, the districts in San Francisco where principally permitted uses were no longer required as a result of Proposition H (including the districts that were added when Proposition H was amended in August 2021, which is discussed in more detail below). There are some areas of the City where neighborhood notification was never required for principally permitted uses. Those areas are shown in blue on the map.

Figure 2: Neighborhood Notification Map[34]



The Power of the "Principally Permitted" Designation

The two provisions of Proposition H described above—30 day permit processing and the elimination of neighborhood notification for eligible projects—only apply to uses that are "principally permitted." One of Proposition H's most significant contributions, but one which is the hardest for a casual observer to notice, is that in the districts where Proposition H applies, it amended the Planning Code to substantially increase the number of uses that are now "principally permitted."

[34] San Francisco Planning Department Presentation to San Francisco Small Business Commission, "Introduction to Planning: Focus on Small Businesses," December 12, 2022, Slide 24, "*311 Neighborhood Notification.*"

Generally speaking, San Francisco's zoning regulations describe various "uses" that are allowed in each given zone. These zoning regulations are set forth neighborhood by neighborhood and zone by zone. In each zone or district, the Planning Code determines whether a use is "Permitted" (P), "Conditional" (C), or "Not Permitted" (NP). Each zone or district is different, which means a use that is "principally permitted" in one zone or neighborhood may only be "conditionally permitted," or not permitted at all, in another.

The Planning Code defines a "principally permitted" use (or "principal use") as a use that is "permitted as of right" in that particular district.[35] In simplest terms, a small business owner who seeks to open a type of business that is "principally permitted" in the chosen location can open that business more quickly and easily than an owner who otherwise requires a "conditional use authorization."[36] And if a small business owner's chosen location is in a district covered by Proposition H (and the project does not require demolition, new construction, or substantial alterations), that business is entitled to 30-day permit processing and the elimination of neighborhood notification requirements.[37]

---

[35] San Francisco Planning Code, Article 1, Section 102(P).

[36] To begin a conditional use of a development site, an application to the Planning Commission is required. The Commission, with the recommendation of the Director of Planning, may approve the application without a hearing, if certain requirements are met. Regardless, an approved authorization may require special conditions of approval to be met, such as noise abatement procedures or equipment. Conditional use decisions by the Planning Commission are potentially appealable to the Board of Supervisors. San Francisco Planning Department, "Condition Use Authorization: Informational and Supplemental Application Packet," Nov. 4, 1986, https://sfplanning.org/sites/default/files/forms/CUA_SupplementalApplication.pdf.

[37] For small businesses with uses that are not "principally permitted" under Proposition H, and therefore not entitled to 30-day permit processing or the elimination of neighborhood notification, the CB3P program, discussed earlier in footnote 21, remains available.

July 2021: First Year Free (FYF)

In July 2021, based on a proposal by Supervisor Hillary Ronen, the Board of Supervisors approved a program called "First Year Free" (FYF). The FYF program waived certain license, permit and business registration fees for qualifying small businesses. The waiver covered specified fees incurred by an eligible small business during its first year of operation, or fees incurred in connection with a new location opened by an existing eligible small business.[38] Initially considered a "pilot program," the original ordinance was effective for one year (November 2021 through October 2022). A $4 million budget was provided for the initial year of the program, which was expected to cover "the low-end estimated cost of the program in that year."[39]

Figure 3: First Year Free Outreach Materials[40]

[38] Certain fees are not waived under the FYF program, such as fees imposed by the State and user impact fees such as the MTA impact fee. In addition, many of the fees that are waived are not fixed amounts, but vary depending on gross receipts or payroll expense for a particular business, or by the type of business. For example, the Business Registration Fee for Fiscal Year 2023–24 can vary from $44 to $838 for businesses likely to be eligible for FYF. San Francisco Treasurer and Tax Collector website, https://sftreasurer.org/business/register-business.

[39] San Francisco Board of Supervisors Agenda Packet, BOS File No. 210741, Budget & Finance Committee, Treasurer-Tax Collector Executive Summary, July 21, 2021 at 1. https://bit.ly/3I5Bucx.

[40] First Year Free Outreach Materials, San Francisco Office of Treasurer and Tax Collector website, https://sftreasurer.org/business/first-year-free (accessed May 10, 2023).

New ground floor commercial businesses, or existing small businesses seeking to open a new ground floor location, qualified for the FYF program if they had $2 million or less in estimated (or reported) San Francisco gross receipts.[41] "Formula retail" businesses (often referred to as "chains") were not initially eligible for the program.[42] Eligibility for FYF was determined at the time a new business registered, or added a new location, with the San Francisco Office of the Treasurer & Tax Collector (TTX).[43]

TTX established an online system that determined eligibility for FYF at the time a new business applied for a Business Registration Certificate or when an existing business requested an application to open a new location.[44] All eligible small businesses were invited to "opt in" to the FYF program. Those that did so were enrolled automatically, and TTX waived their registration fee.

TTX controls the billing and collection of many of the fees that are subject to waiver under FYF, but not all of them. Other fees subject to a waiver under FYF are imposed by other City agencies. Thus, if a small business enrolled in the FYF program, and later went to another City department to apply for a permit or license for which fees were required to be waived under FYF, those departments were expected to take appropriate measures to avoid billing that business for a fee that should have been waived. To facilitate this process, those other departments were given access to a TTX online "lookup tool" that listed all small businesses enrolled in the FYF program.

---

[41] First Year Free Interim Report to the Board of Supervisors ("FYF Interim Report"), February 28, 2022, at 2. https://sftreasurer.org/sites/default/files/2022-04/First%20Year%20Free%20Report%20to%20BOS%204.15.22.pdf

[42] FYF Interim Report, at 2.

[43] FYF Interim Report, at 3. Because many new businesses have low gross receipts when they first open, including large businesses that can quickly become highly profitable, the program provided that fee waivers could later be revoked if a business that originally qualified for a waiver later exceeded $10 million in gross receipts in any of the three calendar years after the business opened or added a location. San Francisco Board of Supervisors Ordinance 0143-21, BOS File No. 210741, October 18, 2021, https://sfbos.org/sites/default/files/o0143-21.pdf.

[44] FYF Interim Report, at 3.

When a City department used the "lookup tool" and determined that a small business was enrolled in FYF, the permit or license fees for that business, to the extent included in the FYF program, were to be "waived on the spot," so the business could proceed "fee-free" during its first year.[45] Each participating city department was reimbursed from the General Fund for all fees waived under the FYF program.[46] Thus, there was no incentive for any City department to withhold fee waivers for eligible small businesses, because the City's General Fund would "repay" each department the amount of fees they would have collected but for the FYF waiver.

August 2021: The Small Business Recovery Act (SBRA)

As the FYF program was getting underway, the limitations of Proposition H were already becoming apparent. As noted above, many of Proposition H's most significant reforms applied only in certain neighborhood districts, leaving small businesses in other parts of the City behind, including the hard-hit Financial District and several areas located South of Market (SOMA).[47]

As a result, by March 2021, when Proposition H had been in effect for less than three months, and with the impact of the pandemic still suppressing small business recovery, Mayor Breed introduced legislation to expand Proposition H, called the

[45] FYF Interim Report, at 3.

[46] FYF Interim Report, at 3-4.

[47] Annie Gaus, "San Francisco Small Business Growth Lags Despite Efforts to Speed Approvals," *The San Francisco Standard*, September 10, 2021, https://bit.ly/44QGO5l.

"Small Business Recovery Act" (SBRA).[48] SBRA was passed in July 2021 and approved by Mayor Breed in August 2021.[49]

SBRA extended the reach of the streamlined 30-day permit process beyond the specific neighborhood commercial corridors identified in Proposition H. Under the SBRA, that 30-day permit process would now be applicable to principally permitted storefront commercial uses citywide, including Union Square, Downtown and South of Market.[50] This expansion is included in the yellow areas of the map in Figure 2, above.

Proposition H had also eliminated neighborhood notification requirements in certain specified districts, but some areas of the City, primarily the Eastern Neighborhood Mixed Use Districts (generally located South of Market), were still subject to those requirements.[51] SBRA proposed amendments to the Planning Code to address this issue, but that proposal was not included in the final SBRA legislation.[52] As a result,

---

[48] News Release, Office of the Mayor, "Mayor London Breed Introduces Legislation To Support San Francisco Small Businesses," March 18, 2021, https://sfmayor.org/article/mayor-london-breed-introduces-legislation-support-san-francisco-small-businesses.

[49] City and County of San Francisco Ordinance No. 111-21, File No. 210285, https://sfbos.org/sites/default/files/o0111-21.pdf.

[50] News Release, Office of the Mayor, "Mayor London Breed Introduces Legislation To Support San Francisco Small Businesses," March 18, 2021, https://sfmayor.org/article/mayor-london-breed-introduces-legislation-support-san-francisco-small-businesses; San Francisco Business & Tax Regulations Code Section 32(a).

[51] Proposition H had focused on eliminating neighborhood notification in the Neighborhood Commercial Districts because in those districts, such notification was required for a change from one use to another. By contrast, neighborhood notification in the Eastern Neighborhoods Districts was considered less onerous, because such notification was only required if the "use category" was being changed. Thus, prior to Proposition H, in the Neighborhood Commercial Districts, a change from a clothing store to a restaurant would have required neighborhood notification, while in the Eastern Neighborhoods Districts it would not, because both the clothing store and the restaurant fall under the "Retail Use" category (meaning the "use category" was not being changed).

[52] City and County of San Francisco Ordinance No. 111-21, File No. 210285, Section 7, at 40 https://sfbos.org/sites/default/files/o0111-21.pdf.

even after passage of the SBRA, small businesses in some areas of the City, especially in the Eastern Neighborhood Mixed Use Districts, remained subject to neighborhood notification requirements, which could prolong the time it took to open or expand a small business in those areas.

March 2022: OSB Small Business Permit Specialists Join the Permit Center

In addition to legislative reforms like Proposition H, SBRA and First Year Free, San Francisco continued to find other innovative ways to support small businesses. After the new Permit Center opened, the Office of Small Business saw an opportunity to improve its outreach to small business owners. In March 2022, OSB posted two Small Business Permit Specialists to a dedicated OSB desk at the Permit Center. These highly trained specialists provide free "concierge style" assistance to small business owners who visit the Permit Center, including assistance with permitting needs.[53]

When small business customers check in at the Permit Center Help Desk, they may be directed to the OSB Permit Specialists, while customers with knowledge of this free

[53] News Release, Office of the Mayor, "Mayor London Breed Announces Small Business Permitting Support Services," May 5, 2022, https://sfmayor.org/article/mayor-london-breed-announces-small-business-permitting-support-services. These Small Business Permit Specialists replaced and expanded on a pilot program initiated by the Office of Economic and Workforce Development (OEWD) in 2016. That program, "Open In SF," provided free dedicated "case manager" services to individuals seeking to open small restaurants and food businesses by helping them obtain the necessary permits and licenses. "Commercial Vacancies in the Upper Market/Castro and City Permitting," San Francisco Board of Supervisors Budget and Legislative Analyst Policy Analysis Report at 8, Mar. 5, 2019, https://sfbos.org/sites/default/files/BLA.CommclVacancies.UMC_.Permitting.030519.pdf. The program was so effective that the Economic Recovery Task Force, which was formed to guide the City's recovery from the pandemic, recommended that it be expanded to serve other types of small businesses. Economic Recovery Task Force Report, October 2020, at 29, https://www.onesanfrancisco.org/sites/default/files/inline-files/FNL_70_EconomicRecoveryTaskForceReport_1020_ENG_Screen.pdf. That recommendation has now come to fruition.

service can also proceed directly to the OSB Permit Specialist desk.[54] Since beginning this new service, the Small Business Permit Specialists have handled over 870 cases involving permitting questions and assistance.[55]

May 2022: DBI Adds Small Businesses Inspections Ambassadors Team

In May 2022, the Department of Building Inspection ("DBI") launched its Small Business Inspections Ambassadors Team. This dedicated team of DBI inspectors proactively assists small businesses that experience inspection-related issues when trying to open a storefront, by helping to resolve any issues that may arise in the field during the inspection process.[56]

November 2022: First Year Free Is Expanded and Extended

During the first year the FYF program was in effect, it reached fewer small businesses than expected. It was originally estimated that total fees waived under the first year of the program might reach $4 million. But by August 2022, when the FYF program had been in place for about 9 months, only $441,423 in fees had been waived—only about

---

[54] The "QLess" system at the Permit Center displays the wait times for the various services at the Permit Center, both online and on electronic displays on the upper floors. However, during two separate site visits to the Permit Center, we observed that the main electronic sign board in the street-level lobby did not include the wait times for the OSB desk, which could cause potentially interested small business customers to overlook this helpful service.

[55] News Release, Office of the Mayor, "Mayor Breed Announces Small Business Permitting Improvements and Permit Center Accomplishments," May 23, 2023, https://sf.gov/news/mayor-breed-announces-small-business-permitting-improvements-and-permit-center-accomplishments.

[56] News Release, Office of the Mayor, "Mayor London Breed Announces Small Business Permitting Support Services," May 5, 2022, https://sfmayor.org/article/mayor-london-breed-announces-small-business-permitting-support-services.

10% of the amount budgeted. One explanation offered for this underperformance was that the initial eligibility criteria for the program were too "limiting."[57]

Thus, in November 2022, the Board of Supervisors unanimously voted to expand the FYF program to cover more small businesses and extend its end date. The Board also voted to make these expansions of the program retroactive.[58]

The 2022 expansion of the FYF program did several things: (a) It increased the maximum amount of gross receipts for a business to qualify for the program from $2 million to $5 million; (b) it removed the requirement that a qualifying business must be on the ground floor; (c) it expanded eligibility to include all business types, including formula retail; (d) it increased the amount of gross receipts above which the waiver could be retroactively revoked from $10 million to $15 million; and (e) it extended the new benefits of the expanded program retroactively to November 1, 2021. The retroactivity provision means that small businesses that opened or expanded during the first year of the program and were not eligible under the original criteria, but who would have been eligible under the new expanded criteria, will be notified that they can claim retroactive fee waivers.

The increase in the eligibility limit from $2 million to $5 million in gross receipts meant that many more businesses would qualify for the program. Another limiting factor that was eliminated in the 2022 expansion was the requirement that a qualifying business had to be on the ground floor. FYF had initially focused on revitalizing the City's "retail corridors," but the 2022 expansion removed that limitation. These changes reflect a recognition that the initial scope of the FYF

---

[57] San Francisco Board of Supervisors Budget and Legislative Analyst Report to Budget and Finance Committee, BOS File No. 22-0970, Executive Summary, October 21, 2022, at 1, 3, https://sfgov.legistar.com/View.ashx?M=F&ID=11422831&GUID=385ADDC3-24DF-444B-A413-7D0B96E0812F.

[58] San Francisco Board of Supervisors Ordinance No. 231-22, BOS File No. 220970, at 2, November 17, 2022, https://sfgov.legistar.com/View.ashx?M=F&ID=11466947&GUID=4B3B5964-A761-421F-B8BD-8B93E8066C5E.

program was too narrow, particularly as the lingering impact of the pandemic continued to make small businesses reluctant to open or expand.

The recommended budget for the 2022 expansion of the FYF program was approximately $3.7 million.[59] Although an early "Interim Report" recommended that the Board consider making the FYF program permanent, the program has currently been extended only through June 2023.[60]

May 2023: Proposition H "Alignment" and New Proposed Legislation

At the same time the Board was extending the FYF program, efforts were underway for yet another expansion of Proposition H. As noted above, even after the SBRA expansion in 2021, neighborhood notification requirements remained in place in certain "Eastern Neighborhood" (South of Market) districts, which meant that small businesses in those areas were not able to benefit from 30-day permit processing that businesses in other neighborhoods were eligible to receive under Proposition H.[61]

In late 2022, the Planning Department introduced a "Prop H Alignment" proposal to rectify this issue. The proposal made changes of use in the Eastern SOMA Plan Area eligible for 30-day permit processing and eliminated neighborhood notification for principally permitted uses in the Western SOMA Plan Area, Central SOMA Plan Area and East SOMA Plan Area. The map below shows, in pink, the areas to be covered by the proposed expansion.

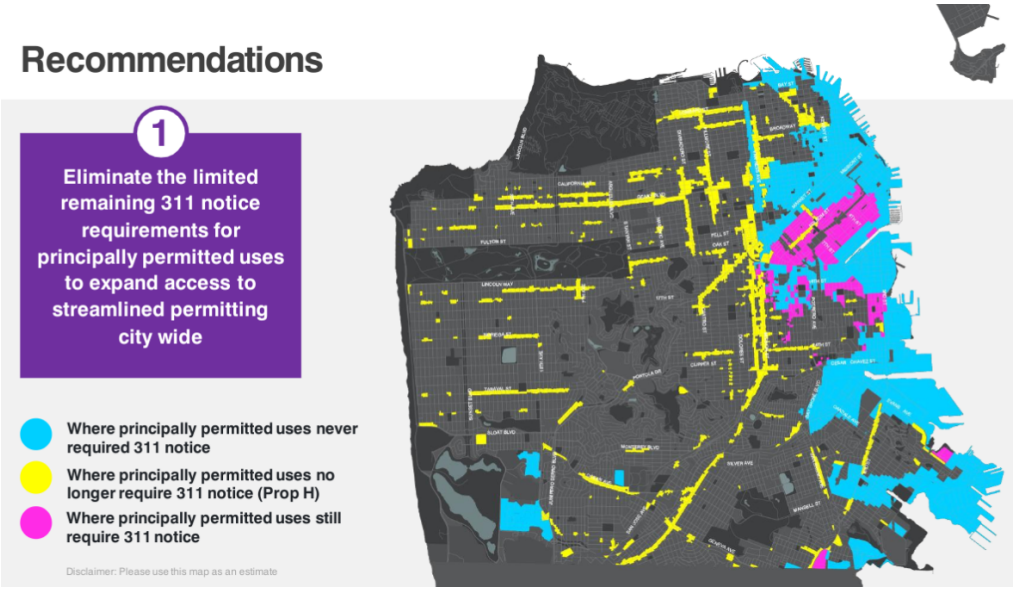
---

[59] San Francisco Board of Supervisors Budget and Legislative Analyst Report to Budget and Finance Committee, BOS File No. 22-0970, Executive Summary, October 21, 2022, at 5, https://sfgov.legistar.com/View.ashx?M=F&ID=11422831&GUID=385ADDC3-24DF-444B-A413-7D0B96E0812F.

[60] FYF Interim Report, at 8.

[61] San Francisco Planning Department Presentation to San Francisco Planning Commission, "Neighborhood Commercial and Mixed-Use Zoning," November 17, 2022, Slide 13, "Prop H Alignment."

Figure 4: Map Showing 2023 Expansion[62]



The Board of Supervisors passed these provisions on April 25, 2023 as part of a package of other zoning changes, and Mayor Breed approved them on May 3, 2023.[63]

In addition to the Proposition H Alignment provisions, in March 2023 Mayor Breed announced new proposed legislation to " build[ ] upon the success" of Proposition H and the SBRA.[64] The draft legislation, also sponsored by Board of Supervisors President Aaron Peskin, includes proposals for changes in the Planning and Building Codes to simplify the approval process and requirements for converting existing office

[62] Presentation by San Francisco Planning Department, Office of Small Business and Office of Economic and Workforce Development to Board of Supervisors Public Safety and Neighborhood Services Committee, "Small Businesses In San Francisco," September 9, 2021, Slide 17, "Recommendations."

[63] Board of Supervisors Ordinance No. 070-23, BOS File No. 220340, May 3, 2023, https://sfgov.legistar.com/View.ashx?M=F&ID=11954613&GUID=5F225593-1839-469E-B1ED-993DCCF6C921.

[64] News Release, Office of the Mayor, "Mayor Breed Announces Small Business Permitting Improvements and Permit Center Accomplishments," March 23, 2023, at 1 https://sf.gov/news/mayor-breed-announces-small-business-permitting-improvements-and-permit-center-accomplishments; Chase DiFeliciantonio, "Here's Mayor Breed's Small Business Plan," *San Francisco Chronicle*, March 23, 2023, https://bit.ly/42u80gX.

buildings into housing, and to remove restrictions to allow for a greater variety of businesses and activities in Union Square and Downtown. The Planning Commission approved the proposed legislation on May 4, 2023.[65] This legislation faces a series of additional hearings and is not expected to be finalized during this Jury term. But its introduction demonstrates that the latest chapter of the Proposition H story is still being written.

The preceding discussion has described the evolution of Proposition H's provisions regarding 30-day permit processing and changes to neighborhood notification requirements, from the legislation originally approved by the voters in 2020, through the expansions put in place by the 2021 Small Business Recovery Act, through the new 2023 Proposition H Alignment. "Proposition H" will be used hereafter (including in our Findings and Recommendations) to refer, in the aggregate, to the evolution of these specific provisions as a result of each of these individual legislative enactments.

The Rocky Path to Reform:
Implementation Successes and Challenges

Proposition H and First Year Free have the potential to provide a lifeline to San Francisco's small businesses at a time when they need it most. The City has invested time and money[66] on these programs, and the City personnel we interviewed

[65] News Release, Office of the Mayor, "Planning Commission Approves Legislation To Support Future of Downtown and Union Square," May 4, 2023 https://sf.gov/news/planning-commission-approves-legislation-support-future-downtown-and-union-square

[66] In the case of First Year Free, the costs of the program are carefully tracked and reported. However, in the case of Proposition H, it is not possible to know the cost of providing 30-day permit processing to eligible small businesses, in large part because City agencies have very little data about how many businesses are eligible for such processing. When Proposition H was originally presented to the voters in 2020, the City Controller opined that the new process of reviewing, approving and inspecting the small business uses targeted by the ordinance would "minimally to moderately" increase the City's costs, and the new coordinated permit review process would likely require "minimal to moderate" increased staffing. However, the

uniformly described these programs as popular and effective. Indeed, City officials repeatedly tout the "success" of these efforts in the press. Accordingly, when we began our investigation, we thought it would be easy to obtain data to show how many small businesses had benefited from these reforms.

That is not what we found. Instead, we found a study in contrasts. On one hand, the First Year Free program, administered by TTX, maintains, updates and publishes detailed data about how many small businesses are enrolled in the program, which enables us to assess its effectiveness. On the other hand, however, the City agencies that administer the streamlined 30-day permit process required by Proposition H, with one limited exception, are unable to provide data to show how many small businesses are eligible for expedited permit processing. Because there is no reliable data to show how many small businesses are eligible for streamlined permit processing, there is no way to know how many businesses have benefited from this important reform, let alone how often the City actually meets the 30-day timeline.

We also found that with both FYF and Proposition H, the initial scope of these reforms proved to be far too limited. In addition, the implementation process for FYF and Proposition H has been hampered by glitches and errors, a lack of coordination and cooperation across City agencies, outdated computer systems that impede accurate data sharing and collection, and insufficient outreach to the very small businesses the City is trying so hard to help.

Controller also noted that these costs might be offset by the savings in City staffing time and costs that would result from the more streamlined permit review process, and an increase in business activity driven by the reforms might result in higher business tax receipts. City and County of San Francisco Voter Information Pamphlet and Sample Ballot, November 3, 2020, at 100–101, https://webbie1.sfpl.org/multimedia/pdf/elections/November3_2020.pdf . We did not identify any data that might show how closely the Controller's opinion reflects the actual costs or benefits of Proposition H.

First Year Free

Our investigation revealed that the First Year Free program (FYF) has been popular and well-received. An April 2022 survey of small businesses enrolled in FYF found that 75% of program participants found it easy to get fees waived, and most respondents were "very satisfied" with the program.[67] Food Service businesses in particular, including restaurants, have benefitted from the FYF program.[68] This is likely because restaurants are disproportionately burdened with more and higher fees than other types of small businesses, which means the waiver of most fees during the first year of operation of a new restaurant or new restaurant location can be substantial.

FYF Aimed Too Low

However, the fact that the FYF Program was significantly expanded in 2022 shows that its initial scope was far too modest. During the first year of the program, its overly narrow eligibility requirements meant that it reached fewer small businesses than had been hoped.

From the inception of the program in November 2021 through the end of December 2022, 2,869 eligible small businesses enrolled in FYF. This figure included 757 new businesses, as well as 2,112 existing small businesses that opened new locations. During that period, the City waived $972,083 in fees under the program. Although some businesses, such as restaurants, incur more in waivable fees during their first year of operation than other types of businesses, the average amount of fees waived across all business types during this period, on average, is about $338 per business or new location.

---

[67] Office of the Treasurer & Tax Collector First Year Free Survey Results, April 2022, at 6, 8.

[68] Interim FYF Report, at 6.

The 2022 amendment that expanded the FYF program has already shown some success in reaching more businesses. By May 8, 2023, the TTX web site reported that the total number of eligible small businesses enrolled in FYF had increased to 3,727.[69] The corresponding amount of fees waived for these enrolled businesses has not been published, so it is not yet possible to determine whether this increased enrollment has closed the gap between the $3.7 million budgeted for the program and the $972,083 in fee waivers actually provided as of December 2022. One way to reach more small businesses is to extend the FYF program, which this Jury recommends, a view which appears to have growing support.[70]

FYF's "Opt-In" Requirement Leaves Some Small Businesses Behind

Although the expansion of the FYF program has been welcome, the requirement that an eligible small business must affirmatively "opt in" to the program, rather than being automatically enrolled with an "opt out" option, affected the total number of participating small businesses. We learned that from inception of the program through December 2022, 415 eligible small businesses, or 12.6%, elected *not* to "opt in" to the program.

Because taxpayer information is confidential, there is no way to know why about 12% of eligible small businesses choose not to "opt in" to a program that would waive various fees during their first year of operation. It is possible that businesses do not want to run the risk of having to repay waived fees, with potential penalties, if it turns out that they improperly estimated their gross receipts. Whatever the reason, it seems reasonable to think that an "opt out" procedure might enroll more eligible small

---

[69] San Francisco Office of Treasurer and Tax Collector website, https://sftreasurer.org/business/first-year-free (accessed May 8, 2023).

[70] FYF Interim Report, at 8; San Francisco Small Business Commission and San Francisco State University, "2022 Small Business Survey on Economic Recovery," March 2023 ("2022 SF State Survey") at 21, https://sf.gov/sites/default/files/2023-05/2022%20SBC%20Small%20Business%20Survey%20%281%29.pdf.

businesses than the current "opt in" process, if any legal or other hurdles that might be presented by such a procedural change could be successfully managed.

FYF Implementation Problems

In addition, even when a small business is determined to be eligible for FYF and does "opt in" to the program, our investigation uncovered implementation problems.

First, no "master list" exists of all of the fees that are waived under the FYF program. We had hoped to append to this report a list of all the fees that can be waived under the FYF program, but we learned that no such list is available. Such a "master list" would be helpful to small businesses deciding whether to "opt in" to the program. It would also be helpful to OSB, which fields questions from small business customers about the FYF program. A "master list" could also be helpful to the various City agencies outside of TTX that are charged with levying or waiving fees that are subject to the program.

Second, our investigation revealed multiple instances when a small business had enrolled in the FYF program, but was erroneously charged a fee that should have been waived.[71] Our investigation did not uncover any such billing mistakes by TTX, which administers the FYF program, or any billing mistakes involving the City agencies whose fees TTX administers.[72] However, we did discover billing errors by other City agencies, which are discussed in more detail below.

---

[71] Office of the Treasurer & Tax Collector First Year Free Survey Results, April 2022, at 7.

[72] For example, TTX administers the billing and collection of fees for the Department of Public Health (DPH). Accordingly, TTX is able to ensure that businesses enrolled in FYF are not erroneously charged DPH fees that are required to be waived under the FYF program. For example, DPH's online food permit application is synced with TTX data so applicants that qualify for FYF automatically get their fees waived upon submission of that application. FYF Interim Report, at 3.

Each City agency that imposes fees that are subject to waiver under the FYF program is responsible for complying with the terms of the FYF program. However, TTX does not direct or control the implementation efforts of several City departments that impose fees on the small businesses enrolled in FYF, like the Department of Building Inspection (DBI) and the Department of Public Works (DPW). To help ensure that those other departments do not improperly charge a fee to a FYF-enrolled business that should have been waived, TTX has provided those departments with a computerized "lookup tool," which lists the eligible businesses enrolled in the FYF program. This enables other City departments to determine whether a business is enrolled in FYF, so that the department can avoid imposing a fee on that business that is required to be waived under the FYF program.

The Department of Building Inspection (DBI) is one such agency. After FYF was enacted, DBI modified its internal computer system (called the "Permit Tracking System" or "PTS") to include a "FYF" check-box.[73] DBI also created written instructions for its personnel, explaining how to use the TTX "lookup tool" and how to populate the FYF check-box in the PTS system.

Despite these positive steps, the FYF box is not consistently checked in DBI's PTS system, and billing mistakes have occurred. This indicates that DBI personnel are not consistently complying with their own written procedures regarding verification of FYF enrollment before imposing fees that are subject to the program.

Our investigation revealed that, as of April 2023, there were over 140 instances where City agencies have imposed fees on small businesses enrolled in the FYF program that should have been waived, totalling over $194,000 in improper charges. The vast majority of these improper charges were imposed by DBI, although improper charges from DPW have also occurred.

[73] FYF Interim Report, at 7.

Our investigation did not identify any formal audit or review process in place at DBI or DPW to detect and reverse these billing errors. Instead, an informal process has developed to remedy such errors, involving the use of individual emails directed to DBI and DPW by another department, identifying the fee which should have been waived under FYF and seeking its reversal. Upon being notified of these billing errors, DBI requires the impacted small business to complete a form before it can obtain a refund of the fee that DBI should not have imposed in the first place.

Obviously, leaving this correction process to informal ad hoc efforts by conscientious individuals is not a tenable long-term solution to this very fixable problem, an issue we seek to address in our Recommendations. In considering our Recommendations, it would seem appropriate for the relevant City agencies to implement prompt corrective procedures that would prevent and fix these billing errors without requiring any action by the FYF-enrolled businesses. Such procedures could include: (a) requiring City personnel to determine, using the TTX lookup tool or a similar method, that a business is enrolled in FYF before imposing any fee that is subject to a FYF waiver; and (b) requiring personnel in each department that imposes fees on FYF-enrolled businesses to promptly identify, on at least a weekly basis, all instances where a FYF-enrolled business was charged a fee by that department that should have been waived, and to promptly refund all improperly charged fees to each FYF-enrolled business without requiring any action by the affected business to obtain that refund.

Proposition H

Proposition H, once passed by the voters in November 2020, was implemented with breathtaking speed. A working group of relevant City departments was quickly formed, and the new, streamlined 30-day permit process required by Proposition H was put in place within 30 days from the date Proposition H became effective.[74]

[74] News Release, Office of the Mayor, "Mayor London Breed Issues Executive Order to Implement Proposition H for Small Businesses Within 30 Days,"November 19, 2020, https://sfmayor.org/article/mayor-london-breed-issues-executive-order-implement-propo

Since then, there have been anecdotal media reports of some happy success stories. In 2023, a recent immigrant from Thailand, assisted by the Small Business Permit Specialists and OSB Small Business Case Managers, received the permits she needed to open a restaurant within 30 days under Proposition H.[75] Another small business owner, who obtained permits to open a cafe in the Mission District within 30 days, described the new process as "magical."[76]

Proposition H's Scope Was Too Narrow

But like First Year Free, the initial scope of Proposition H was almost immediately perceived to be far too modest. The need to expand it to other areas of the City that were hardest hit by the pandemic but not initially reached by Proposition H was noted almost immediately.[77] This led to the enactment of the SBRA in 2021 and the "Proposition H Alignment" provisions approved in May 2023.

After the SBRA expanded the reach of Proposition H (but before the further expansion resulting from the recent Proposition H Alignment), City officials sought to tout the increasing number of small businesses that have benefited from Proposition H's streamlined permit process. Thus, in March 2023, the Mayor's Office reported that

---

sition-h-small-businesses-within-30; San Francisco Business and Tax Regulations Code Section 32(b).

[75] London Breed, "Next Steps for Supporting Small Business," Medium.com, March 23, 2023, https://londonbreed.medium.com/next-steps-for-supporting-small-business-7c5ed0e3d48.

[76] Elena Kadvany and Mallory Moench, "San Francisco passed a law to cut red tape for businesses. But it's getting mixed reviews," *San Francisco Chronicle,* September 12, 2021, https://bit.ly/3M25Xtc.

[77] Trisha Thadani, "Mayor Breed proposes more reforms to help struggling small businesses in S.F. slammed by the pandemic," *San Francisco Chronicle*, March 18, 2021, https://bit.ly/42wt4mV.

since Proposition H took effect in January 2021, over 3,500 projects had benefited from its streamlined permit-processing provisions.[78]

We thought it would be a simple matter to confirm this publicly-reported figure. We quickly learned otherwise. Our investigation revealed that with one limited exception, the City does not have a mechanism to collect or report data about how many businesses are eligible for streamlined permit processing under Proposition H, or how often the City meets the Proposition H 30-day timeline. It is therefore not possible to say with certainty how many businesses have benefited from this new streamlined process. We discuss the reasons for this, and some potential solutions, below.

The Proposition H 30-Day Timeline Can Be Confusing

When we tried to uncover the facts behind the publicly reported number of businesses that benefited from Proposition H, we learned that one challenge in assessing compliance with the 30-day permit processing timeline involves how those 30 days are calculated. The 30-day timeline does *not* mean 30 calendar days from the submission of a complete application to the issuance of the necessary permit(s). Instead, the only "days" that are counted for purposes of Proposition H compliance are the days a completed application or project is in "City hands," not the days it is in the "applicant's hands." For example, if a small business owner submits a permit application to a City agency, and if the agency gives that application back to the applicant with instructions to address certain issues before the application can proceed to the next stage of review, the 30-day "clock" stops running when the application is returned to the applicant, and starts running again when that applicant subsequently returns the application to the City for further review and processing.

[78] News Release, Office of the Mayor, "Mayor Breed Announces Small Business Permitting Improvements and Permit Center Accomplishments," March 23, 2023, at 1, https://bit.ly/41BOTA6.

Thus, for a business that is eligible for 30-day permit processing under Proposition H, it can take more than 30 calendar days from the date a complete application is first submitted[79] until the date that business receives the approved permits. This makes sense, because the City cannot control how much time any applicant might wish to take to address comments or provide missing information. Some applicants abandon their plans altogether for a variety of reasons, some of which can be entirely unrelated to the permit process. But the notion that 30 days includes only those days when a completed application is in "City hands" has not been well-publicized and is not well understood by the public. This has led to a misperception by some small business owners that Proposition H is not working.[80]

Another nuance to the timing of the 30-day clock involves permits processed in person at the Permit Center. Small businesses have two ways of submitting permit applications. One way is to submit permit applications online, without ever visiting the Permit Center, using an Online Portal specially designed to implement and track the Proposition H 30-day timeline. Alternatively, a business can choose to visit the Permit Center in person and submit any necessary permit applications during that visit. Proceeding in person by visiting the Permit Center is often referred to as proceeding Over the Counter ("OTC").

Most small businesses who opt to visit the Permit Center in person begin their "permit journey" at the Planning Department or DBI, each of which defines the "OTC" process slightly differently. The Planning Department considers a project OTC if it can be reviewed and approved in less than 15 minutes while the customer waits.

---

[79] Adding to the confusion, an application that contains errors is not considered "complete" until those errors are corrected, and the 30-day clock does not start to run until a complete application is submitted. Elena Kadvany and Mallory Moench, "San Francisco passed a law to cut red tape for businesses. But it's getting mixed reviews," *San Francisco Chronicle,* September 12, 2021, https://bit.ly/3M25Xtc.

[80] Elena Kadvany and Mallory Moench, "San Francisco passed a law to cut red tape for businesses. But it's getting mixed reviews," *San Francisco Chronicle,* September 12, 2021, https://bit.ly/3M25Xtc.

Planning designates all other projects as "Intake" projects that require more in-depth review. DBI designates a project as OTC if the expected review time is one hour or less at each plan review station.[81] DBI processes all other projects "in-house."

Small businesses who visit the Permit Center in person and proceed OTC, whether they start with Planning or with DBI, might be surprised to learn that it is generally presumed that all OTC projects comply with the Proposition H 30-day clock. This is because an OTC project, by definition, is rarely considered to be in "City hands." If an OTC project cannot be resolved at the Permit Center during a business's first visit, the project is returned to the customer, who must come back to the Permit Center another day. That temporarily stops the Proposition H 30-day "clock." The "clock" only starts again when that customer returns, in person, to the Permit Center at a later date.

To take a hypothetical based on an actual example: imagine the case of a business owner who visits the Permit Center in person and submits a permit application. If the application is returned to the owner that same day with instructions for necessary revisions, that counts as one day on the Proposition H clock. If that process repeats itself 13 times—meaning the owner visits the Permit Center on 13 separate days, each time with the application returned to him or her that same day for more changes—and if the required permit(s) are finally issued 275 calendar days after the application was first submitted, that project was only in "City Hands" for 14 days (the days the owner actually visited the Permit Center). Although the entire process took 14 visits to the Permit Center and 275 calendar days to complete, those 14 days are all that count for the Proposition H "clock"—well within the Proposition H 30-day timeline.

With that understanding of how Proposition H compliance is measured, we sought to learn how often the City complies with the 30-day mandate. Our investigation revealed that with one limited exception, there is no mechanism to track compliance

[81] News Release, San Francisco Department of Building Inspection, June 22, 2022, https://sf.gov/news/department-building-inspection-news-release.

with the Proposition H 30-day timeline. There are several factors that explain the limited ability to track Proposition H eligibility and compliance, as we discuss below.

The Success Story:
The Online Portal Tracks Proposition H Eligibility and Compliance

Our investigation revealed that there is only one source of accurate data regarding Proposition H eligibility and compliance: the Online Portal that was developed in the days after Proposition H was adopted. Yet despite its impressive ability to track Proposition H eligibility and compliance, very few small businesses—only 80 as of December 2022—currently use the Online Portal to submit permit applications.

Immediately after Proposition H passed, the working group charged with its implementation developed an Online Portal that explains the new streamlined process required by Proposition H, and enables eligible small businesses to get their permits reviewed and approved entirely online, without ever having to visit the Permit Center. The Online Portal is easily accessed from the OSB or the OEWD websites, using a link titled "Get your small business permits with a 30-day review: Open a new business or change your business operations under Prop H."[82]

Small businesses can use the Online Portal to find out if they qualify under Proposition H for expedited 30-day permit processing. The instructions that appear when one accesses the Online Portal clearly explain the types of projects that are *not* eligible for 30-day review under Proposition H: Projects that expand the footprint of the building; projects that expand the interior square footage of the business; new buildings; and projects that include excavation.

For small business owners with projects that are not in the "excluded" categories noted above, the Online Portal presents a series of questions about their business and

[82] Access to the Online Portal is available via the San Francisco Office of Small Business website, https://sf.gov/step-by-step/get-your-small-business-permits-30-day-review.

proposed project. Based on the answers to this online questionnaire, the Online Portal determines the applicant's eligibility for 30-day processing under Proposition H.

Applicants who are determined to be eligible for 30-day review under Proposition H receive a reply with information about the forms they must complete to obtain the necessary permits.[83] Those forms can be submitted online for processing and approval using the Online Portal. Applicants who submit their forms using the Online Portal receive an email within 5 business days to confirm that their application is complete, and the 30-day review period under Proposition H begins.

Because the Online Portal accurately tracks which projects are eligible for streamlined processing under Proposition H and which are not, and tracks each eligible project to ensure compliance with the 30-day timeline, we were able to confirm that compliance with the 30-day timeline for projects submitted via the Online Portal is 100%: all permits submitted using the Online Portal were issued within the 30-day window required by Proposition H.

Unfortunately, the number of customers using the Online Portal so far has been relatively small. Over 300 businesses used the Online Portal in 2021 and 2022.[84] Only 80 of those 300 businesses submitted their permits online using the Portal during that time.[85]

---

[83] Applicants who are not eligible for 30-day review under Proposition H receive an email advising them of that fact within three business days.

[84] The first online questionnaire response was submitted via the Portal in February 2021.

[85] Given that the Online Portal tracks Proposition H compliance well but has been underutilized so far, we investigated whether the City departments who work with small business owners at the Permit Center should be required to enter the relevant information into the Online Portal while the customer is there. We were told that such a process could be time-consuming to administer, and could complicate the tracking of permit processing data because the Online Portal uses a different computer system, and therefore tracks data differently, than the PTS system used by DBI. Pending a resolution of these computer incompatibility issues, it might be reasonable to consider encouraging small businesses who visit the Permit Center to use the Online Portal instead, perhaps at a dedicated workstation in the Permit Center with appropriate guidance and assistance from the Small Business Permit Specialists.

Instead, the vast majority of small businesses choose to visit the Permit Center in person. This may be because the OTC process is familiar, whereas the Online Portal is relatively new, and may not have been well-publicized. It may also be because more uses are now "principally permitted" under Proposition H, which eliminated many neighborhood notification requirements, which means more small businesses can proceed "over the counter" (OTC) at the Permit Center than was the case before Proposition H.[86] It is also possible that business owners with knowledge of the Online Portal still choose to visit the Permit Center because, if all goes smoothly, those who visit the Permit Center *may* be able to obtain what they need in one day. The same process, using the Online Portal, saves a business owner a physical trip to the Permit Center, but can take a few days to process.

But the fact that most small businesses, for whatever reason, choose to visit the Permit Center has a downside. When a small business elects to visit the Permit Center, that project is not screened for Proposition H eligibility at the outset of the process. Because there is no way to know which applications and projects submitted in person at the Permit Center are covered by Proposition H (unlike those submitted via the Online Portal), there is also no way to track the City's compliance with the Proposition H 30-day processing window. This means that for the vast majority of small business applications and projects, no data currently exists to tell us how many businesses are benefiting from Proposition H's streamlined permit process, or how often the City is meeting the mandatory 30-day timeline.

[86] In February 2022, OTC permits accounted for 94% of all building permits issued (1,716 out of 1,816 building permits). News Release, Office of the Mayor, "Mayor London Breed Announces 28% Decrease in Processing Time for Over-the-Counter Building Permits to Speed Construction," March 16, 2022, https://sfmayor.org/article/mayor-london-breed-announces-28-decrease-processing-time-over-counter-building-permits-speed.

The Challenges: At The Permit Center, Proposition H Eligibility and Compliance is Estimated, but Not Tracked

No Screening for Proposition H Eligibility at the Permit Center

Visitors to the Permit Center generally start at the Help Desk, where staff direct each customer to the appropriate City department(s) and enter them in the QLess system, which electronically tracks their wait times and assigns their places in line at the various departments they must visit. If the visitor tells Help Desk staff that they are there to discuss a small business, they will often be directed to the Small Business Permit Specialists. However, our investigation revealed that there is no formal intake procedure, at the Help Desk or at any of the other departments in the Permit Center (unlike the Online Portal), to screen whether any application or project qualifies for streamlined 30-day permit processing under Proposition H (referred to hereafter as "Proposition H eligibility").

Because Proposition H eligibility is not formally assessed during intake at the Permit Center, the various departments that manage an applicant's subsequent "permit journey" are not able to track their compliance with the Proposition H 30-day window. To fill this gap, some City departments have developed methods to "estimate" Proposition H eligibility and compliance. Of course, estimates are only as good as the data on which they are based. In the case of the Permit Center, the data beneath the estimates reflects a patchwork of assumptions, as discussed below.

Incompatible and Outdated Computer Systems

Trying to "estimate" the number of projects covered by Proposition H would be complicated even with perfect data under the best of circumstances, but the data environment at the Permit Center is arguably the worst of circumstances. The various departments in the Permit Center use different computer systems, many of which do not share data, or share data in a limited and cumbersome fashion. To name just two examples, Planning and DBI, the primary departments involved in the "permit

journey" for most small businesses, use different, and largely incompatible, computer systems.

The Planning Department converted to the Accela system several years ago. DBI, as noted above, uses the PTS system. PTS is, by all accounts (including DBI's), regarded as an "antiquated" system that is no longer supported, and is in need of replacement. In fact, this has been public knowledge for over ten years. A 2013 Civil Grand Jury report cited a 2007 Business Process Reengineering (BPR) study that identified serious limitations with the PTS system. That 2007 BPR study recommended the creation of a city-wide automated permit tracking system, and integration of all databases involved in permit review and inspection.[87] When the 2013 Civil Grand Jury issued its report several years after that BPR Study, DBI was in the process of converting to the Accela system. But despite spending millions of dollars on the conversion process, that process was never completed.

There may be valid reasons why DBI did not convert to the Accela system.[88] But DBI's continued use of the antiquated PTS system is one reason it is difficult or impossible to track projects across the various City departments involved in permitting.[89] The lack of a single integrated source of data regarding all pending projects, in turn, makes it difficult or impossible to accurately track how many Proposition H-eligible

---

[87] San Francisco Civil Grand Jury Report, "Building a Better Future at the Department of Building Inspection, June 2013, at 23-24, https://civilgrandjury.sfgov.org/2012_2013/BuildingABetterFuture.pdf.

[88] In the media, DBI has claimed that the vendor, Accela, was not able to correct various "bugs" to DBI's satisfaction. Heather Knight, "S.F.'s building department is a mess. It's no wonder pay-to-play rules the day," *San Francisco Chronicle*, December 12, 2020, https://bit.ly/3W1F4uj.

[89] DBI is able to make limited modifications to its outdated PTS system. For example, DBI was able to add a "FYF check-box" in PTS, although it is inconsistently used, as noted above. However, PTS does not contain a similar "Proposition H check-box." It is not clear whether this is due to technological limitations with the PTS system, or whether this is because screening for Proposition H eligibility is far more complex than screening for FYF eligibility (which can be easily done by using the TTX look-up tool).

projects are in process at any given time, or how often the City complies with the 30-day processing time required by Proposition H.[90]

An Imperfect Estimation Process

Because Proposition H eligibility is not assessed at the Permit Center, and given the technological challenges just discussed, the Planning Department, DBI and OSB have developed methods to estimate the number of Proposition H-eligible customers served at the Permit Center and how often the City meets the 30-day timeline for those customers. Like all estimates, these methods are imperfect. They both overestimate, and underestimate, the impact of Proposition H.

In general, each estimation method uses the available data to find "proxies" that represent the types of projects or permits that are most likely to be subject to Proposition H. These include things like: identifying the most common permits a small business owner needs to operate (building permits and health permits); filtering data for commercial projects with a project valuation of $10 million or less; identifying proposed uses that are most likely to fall within Proposition H; and excluding, where possible, certain uses not covered by Proposition H[91] (such as office and trade permits, permits with addenda, or permits with a cost of construction of over $1 million). The estimation methodologies do not appear to be disclosed to the public, nor are they uniform across departments.

---

[90] The need for better data and systems integration across the various agencies at the Permit Center is well-known. The City's current "Five Year Financial Plan" has targeted a need for the City Administrator to increase service levels and transparency at the Permit Center by, among other things, "focusing on data sharing and systems." City and County of San Francisco Proposed Five-Year Financial Plan for Fiscal Years 2023–23 Through 2027–28, January 13, 2023, at 92, https://bit.ly/44TH9fH.

[91] Given the limitations of resources and the varying computer systems currently in use, it is not possible to exclude all projects that are not subject to Proposition H. For example, Proposition H does not apply to OTC permits for rooftop wireless installations, but our investigation revealed that no estimation method currently in use has found a way to exclude these projects from the Proposition H estimates, because existing computer systems do not segregate this specific information.

In reviewing the respective estimates generated by each of these departments, we found that they differed from each other, and it was not possible to harmonize the differing estimates. That is because each department uses slightly different time parameters, and varying ways of filtering the data that is available to them, to generate their respective estimates.

It is troubling that outside the Online Portal, which accurately screens for Proposition H eligibility and accurately tracks the City's compliance with the 30-day timeline, there is no reliable method to determine how many small businesses are eligible for streamlined processing under Proposition H, and how many are receiving it. When Mayor Breed reported in March 2023 that over 3,500 businesses had benefited from Proposition H, that press release did not label that figure as an "estimate." The Jury determined that it was an estimate only after we observed that it was consistent with one of the estimates obtained during our investigation. But the public was likely left with the misimpression that the City knows how many businesses have benefitted from Proposition H. That is not the case. Like most estimates, it is impossible to know if that 3,500 number is too high, too low, or about right.

So, is Proposition H Working?

The short answer is: We just don't know. There is a lack of actual, reliable, trackable Proposition H eligibility data (except within the Online Portal). And this lack of data, in turn, means the available estimates may not be reliable.

The most we can say is that some positive trends seem to be emerging from the varying estimates the Jury obtained during our investigation. The ranges vary slightly, for the reasons already noted. But the available estimates provide at least some tentative indication that Proposition H is having a positive impact.

First, since the passage of Proposition H, a higher percentage of business permits have been approved OTC, and fewer projects require a Conditional Use Authorization

(CUA) and neighborhood notification. Before Proposition H, it is estimated that between 34 and 45% of business permits were approved OTC. Since Proposition H was passed, OTC approvals of business permits have increased, and estimates now suggest that between 55–65% of business permits are approved OTC. Because these estimates include all business permits, it is not possible to precisely determine the extent to which the positive impact of Proposition H may be a factor in this increase.

Second, prior to Proposition H, the estimated number of use permits that required a Conditional Use Authorization ranged from 24–27%. Since the passage of Proposition H, that number has decreased. It is now estimated that only 19–20% of such permits required a CUA in 2022. Again, it is not possible to know whether small businesses covered by Proposition H drove this decrease. But the trend of fewer CUAs is a positive sign, because CUAs cannot be processed over the counter, and can take, on average, six to nine months to resolve.

While the available estimates show an increase in OTC approvals and a decrease in CUAs since the passage of Proposition H, it is harder to assess how often the City is complying with the 30-day processing timeline required by Proposition H. Outside of the Online Portal, where reliable data shows 100% compliance with the 30-day Proposition H timeline, it is not possible to know how often the City processes permits for eligible small businesses within the 30-day mandate.

There are hopeful indications, but no verifiable data, to suggest that the City is meeting the Proposition H timeline most of the time.[92] An unverified estimate from 2022 for OTC projects, filtered to capture "likely" Proposition H uses, suggests that those projects were processed within the 30-day timeline between 89 and 94% of the time (excluding time in customer hands). Another unverified estimate of the building and health permits issued during 2021 and 2022, filtered to remove some but not all

[92] If an Entertainment Commission permit is required, it is generally not possible for the City to meet the 30-day Proposition H timeline, because all such permits (other than those for pool tables or mechanical devices) require a public hearing as well as 30-days' notice in advance of that hearing. Proposition H did not eliminate the public hearing and notice requirements for such permits. We do not know if this was intentional, or simply an oversight.

non-Proposition H projects, suggests that 84.65% of those permits were issued in one day, and the average was between 27 and 31 days. But there is simply no verifiable data to show how often the City is meeting the 30-day timeline.

It is concerning that the voters approved a 30-day mandate to process permits for eligible small businesses, but to date, the City has no reliable mechanism in place (outside the Online Portal) to determine whether it is complying with that mandate. Indeed, the inability to accurately track compliance with the Proposition H timeline could lead City personnel to overlook when they need to take prompt action to meet the 30-day timeline. Moreover, because there is no mechanism (outside the Online Portal) to track this information, the public is in the dark about how often the City is (or is not) in compliance with the Proposition H timeline. As set forth in our Recommendations, the Jury believes the City should take the necessary steps to provide full accountability and transparency about its compliance with Proposition H.

What Happens Next to Proposition H?

For three years after its effective date, the terms of Proposition H can only be expanded, not restricted or eliminated.[93] Consistent with that statutory scheme, Proposition H has already been expanded twice so far. This three-year period of protection will expire in December 2023. After that time, without further action, Proposition H will remain in place, but it will be vulnerable to attempts to eliminate or roll back the reforms that the voters supported when they approved Proposition H.

Our investigation revealed that the new streamlined permit process required by Proposition H was implemented smoothly and has been readily accepted by the departments involved in its implementation. Media reports and pronouncements from City officials suggest that Proposition H is popular and effective. But the lack of

[93] San Francisco Administrative Code, Appendix: Table of Initiative Ordinances and Policy Declarations, 11-03-2020, "Proposition H: Neighborhood Commercial Districts and City Permitting," Section 10, "Amendments and Related Legislation." http://files.amlegal.com/pdffiles/sanfran/2020-11-03-PropH.pdf.

hard data to show whether Proposition H is succeeding in doing what the voters approved is concerning. As set forth in our Recommendations, the Jury hopes the City will take the steps necessary to begin collecting and tracking the data that will tell us how many businesses are benefiting from streamlined permit processing, and how often the City is meeting the 30-day mandate. But it is not realistic to expect that will be accomplished by December 2023, when the three-year protection period for Proposition H lapses. We expect it could take several years for the City to implement the actions necessary to collect and analyze that data.

For years, our public officials have publicly proclaimed the need to better support San Francisco's small businesses. An opportunity to put those pronouncements to the test will arise in December 2023, when the protection period for Proposition H will lapse. In our view, it would be premature to consider removing or restricting Proposition H's provisions regarding 30-day permit review or the elimination of neighborhood notification for eligible commercial projects before the City has taken the steps necessary to gather the data that will show whether these provisions are working as intended. We therefore recommend that appropriate steps be taken to defer for an additional three year period any efforts to eliminate or roll back these provisions.

Coordination and Cooperation Across City Agencies

The fact that multiple departments have roles to play in assisting small businesses in their journey to startup presents a familiar challenge of inter-departmental coordination in the City.

In the context of local government, "silos" refer to isolated groups or departments that work independently of one another and don't communicate or collaborate effectively, resulting in inefficiencies and poor service delivery to citizens. Silos can occur due to various reasons such as differences in departmental goals, technology

integration issues, cultural differences, or barriers to cross functional work processes or coordinated decision-making.

The Jury learned that according to some City personnel, the COVID-19 pandemic was "the best thing that could have happened" to break down silos in the City. The response to the pandemic taught SF employees to work better together, in an expeditious, coordinated manner.

The relationship between Planning and DBI with new leadership at DBI at many levels is generally considered better than the situation in past years. There are frequent talks between key Department Directors regarding issues associated with work at the Permit Center. Planning is working with DBI to try to simplify the planning, entitlement and application process to make it more understandable.

Although the relationship between the various departments involved with small business permit application processing is generally considered to be better now than in the past, in part due to multiple departments now sharing a space, which has led to better collaboration, the Jury found that within the Permit Center, numerous permit stations representing different City departments conduct their own permit approval processes for small businesses without oversight authority by the Small Business Commission, the Office of Small Business, or the Permit Center Director, who lacks authority to make operational changes to expedite or streamline processes for issuing permits to small businesses.[94]

The Jury found that in some instances problems that required resolution for successful operation of the Proposition H and FYF programs were not communicated to all City Department management staff responsible for program implementation. The Jury's investigation also found that there were instances when proposed process changes to expedite or streamline procedures for Small Business permit applications

[94] The City Administrator recently engaged an outside consultant to advise regarding potential improvements to Permit Center Governance. The result was a detailed report that is under consideration by the relevant departments, but as of the time of this report, no clear consensus has emerged regarding the best path forward in this regard.

were not implemented, with some City staff characterizing such glitches as examples of resistance to change and other City staff maintaining that the proposed changes did not reflect an adequate understanding of all relevant operational requirements.

Some examples of process changes that have been challenging to implement are the rollout of the QLess system, or the coordination of staff member schedules with the QLess system, enabling customers to set up appointments, improving the process for formalizing a business address within DBI's system before a permit can be issued, and complying with procedures for issuing permits to small businesses in certain instances specified as requiring no plans.

Regular cross-departmental meetings can be a valuable tool for facilitating effective change management, as they can help ensure that everyone is aligned, working together towards a common goal, and able to share information and insights that can help drive success.

The Jury found that regular meetings that bring different departments together to focus on troubleshooting small business problems or addressing chronic problems or choke points impacting small business application processing at the Permit Center do not occur.

Improving inter-departmental coordination is a process that requires ongoing commitment and effort from all stakeholders involved. By taking steps to improve interdepartmental coordination, San Francisco can work towards a more cohesive and effective organizational structure that can produce better results for all stakeholders.

The lack of regularly scheduled inter-agency working sessions to troubleshoot problems affecting small businesses has impaired the robust implementation of FYF, Proposition H, and other reform initiatives intended to streamline processes for small businesses. The City could improve coordination between City agencies by having regular meetings of the different groups that interact with small businesses. Such meetings could be useful to describe implementation challenges reported by staff and

also to receive input from public comments regarding the quality of City services for small businesses.

Two types of meetings could both be useful: (a) public forums that are open to small businesses and merchants' associations; and (b) internal meetings between City departments. The various City departments who support small businesses should have periodic meetings to improve coordination and solve recurring problems. In addition to the internal cross-departmental coordination meetings, public meetings that would include public comment from small business owners or associations coordinated through the SBC and/or the SBAC focused on small business issues should be regularly conducted.

The SBC often "takes the lead" in proposing or authoring specific legislation that will help small businesses. Since SBC has only an advisory role, OEWD and OSB assist with the development of policies to assist small businesses, and when a policy has merit, OEWD and OSB coordinate with the Mayor and/or the Board of Supervisors for action. In some cases, OEWD and OSB jointly go to the Mayor to discuss policy proposals. OEWD and OSB also work jointly to support extensions/expansions of existing policies that benefit small businesses, most recently with the extension of the First Year Free program.

The City should be working toward better collaboration between all the departments that touch small businesses. OSB should be the convener of all the information, as much as possible, for all the programs that exist for small businesses.

Integrated Technology

As noted above, currently Planning and DBI are on different information systems. The Planning Department uses Accela for data tracking, while DBI uses the Permit Tracking System (PTS). Staff of the various departments who review a permit have access to the PTS, and may enter their updates in PTS, but only DBI has editing rights.

Although Planning and DBI each have "visibility" into the other's system, coordinated data entry is not always possible because the systems are not adequately integrated.

Implementation of Proposition H and FYF highlighted some of the coordination issues where the systems are NOT adequately integrated. For example, the Digital Services department of the City Administrator's office wanted to develop an application outside of PTS that would be able to extract data from PTS and input data into PTS, but DBI's storage procedures are closely guarded by the DBI Management Information Systems Division. The Oracle Business Forms platform PTS is currently on was retired by Oracle about 15 years ago and DBI is currently upgrading the infrastructure to make it more robust, so the DBI MIS Division was reluctant to do what Digital Services was proposing. Consequently that initiative never got off the ground. An alternative solution involving utilization of the repository of data known as Data SF, whereby data from multiple systems could be published to the public, has been pursued, but only a very small subset of PTS data is currently available on Data SF. The Jury was informed that this data was only being updated once a week, but the frequency of updates was to increase to at least daily, with more information being published.

DBI has an internal Work In Progress (WIP) report that allows users to click on assignments and "priorities." The WIP report can show projects by "arrive date." DBI focuses its attention on projects with the oldest "arrived dates," and makes sure to reassign those within 10 working days of arrival. But DBI's TPS does not contain a parameter for Proposition H projects, and the WIP report does not include any projects that come in via the Proposition H Online Portal.

The use of non-integrated database systems by permit application stations from different city departments in the Permit Center means that not every permit applicant at the Permit Center who may be eligible for the Proposition H 30-day window can be tracked as they go to the different permit application stations for their permits, thereby limiting the ability to compile data on the overall use of and compliance with

the Proposition H 30-day window provision. The Jury found that it is difficult if not impossible for DBI to demonstrate that it is meeting the Proposition H 30-day permit processing requirement for OTC applicants utilizing current technology. Similarly, it is not possible to easily report the volume of FYF applicants coming through DBI. Although DBI's PTS system was modified to include a box that can be checked to indicate FYF eligibility, and DBI's written procedures include using the TTX lookup tool to populate that box, DBI personnel do not consistently follow those procedures, and many billing errors have resulted.

There is a Digital Services Team that is part of the City Administrator's Office (the team that runs the SF City website) that is working on helping to better capture FYF data. Digital Services is also working with DBI to improve DBI's systems, which may improve DBI's data tracking and reporting. Currently the FYF lookup tool is a separate system and is not integrated into DBI's existing system, because FYF was started as a pilot program, and system integration would be more appropriate if the FYF program is extended further (or becomes permanent).

The Jury's general assessment is that Planning and DBI are not where they need to be in terms of having a transparent system where consumers are able to go online and see where a project is in the process, and what next steps are needed. As the permitting process is moving more and more to an electronic format, there is a growing need for the technology systems of City departments involved in business registration, planning, and permitting to work together. Some City management personnel believe that a single consolidated computer system, preferably web-based, should be implemented at the Permit Center, and achieving this objective has been identified as a priority, but other recent initiatives have apparently distracted City staff from achieving that goal.

The Jury supports integrating the computer systems used by all City departments involved in business registration, planning and permitting. The lack of integration is

an obstacle that was mentioned repeatedly as a concern and an impediment to improved performance.

All departments involved in business registration, planning and permitting should conduct operations on a federated computer system, so small businesses can seamlessly go through the journey, and the City would have better facilities to track eligibility, enrollment, and execution. For the purposes of this report and the Jury's Findings and Recommendations, the Jury considers a federated computer system, in general terms, to be a distributed system composed of multiple autonomous computers, networks, and databases, or a collection of individual computer systems or networks that are connected to each other through a common interface, allowing City personnel to share resources and work together to achieve a common goal of multiple City departments. In this type of system, each City department retains autonomy and can operate independently, but they also communicate and coordinate with each other via the federated computer system to achieve a shared objective.

The Jury is not recommending a specific design for a federated computer system. However, based upon the current status of technology improvement initiatives already underway in the City, implementing a inter-departmental technology integration strategy to develop a federated computer system in the City for departments involved in business registration, planning, and permitting may require attention to the following:

1. Needs assessment: A thorough assessment of the City's technology needs to identify the specific requirements of each department.

2. Technology plan: A strategy for implementing a federated computer system addressing details such as the timeline, budget, and goals of the project.

3. Governance structure: A workgroup or implementation team that includes representatives from each involved department to oversee the implementation of the technology plan.

4. Selection of technology solution: Selection of the appropriate technology solution based on the needs assessment and the technology plan.
5. Implementation: Implementation of the federated computer system in stages to minimize disruption to City operations.
6. Training and support: City employees must receive training to ensure that they are able to use the new technology effectively.
7. Monitor and evaluate: Monitoring and evaluating the effectiveness of the technology to identify any issues and ensure that the system is meeting the needs of the involved departments and their clients.

San Francisco's Small Business Assistance Initiatives Are Undermined by Inadequate Outreach

Proposition H (2020) and First Year Free (2021) represent bold initiatives to provide our small businesses with the best chance to successfully start-up and prosper. But our investigation revealed that the full potential of these efforts to assist small businesses is undermined by inadequate outreach regarding these programs.

We found a substantial lack of awareness about what these programs are intended to do, and how small businesses owners can become eligible for these benefits. The City's outreach to the small business community is better than in years past, but existing outreach efforts are still both insufficient and poorly coordinated. Inadequate outreach compounds the perception that the City is inhospitable to small businesses. The 2021 San Francisco State University study referenced earlier in this report found that only 21% of small businesses surveyed believed San Francisco was a good place to own a small business, and when that survey was updated in 2022, that number had

only increased to 22%.[95] Clearly, more needs to be done to spread the word about how much San Francisco is doing to support its small businesses.

One indication of the lack of information about small business programs is the apparently low enrollment in the First Year Free program. Every potential small business owner eligible for FYF benefits is informed about the existence of the FYF program because this information comes up automatically when a new business registers with TTX (or when an existing business registers a new location). Yet, while there were reportedly "lots of businesses" in the City which should qualify for fee waivers under FYF, and an estimated budget of $4 million to cover waived fees, only $972,083 in fees were actually waived between November 2021 and December 2022. This may reflect a lack of effective promotion about the benefits of this program.

Another indication comes from the recent follow-up to the 2020–21 San Francisco State Survey referenced earlier in this report. The follow-up survey of 802 small business owners in San Francisco was conducted between May and October 2022. It found that 17% of the respondents were not aware of many of the programs that were available to them.[96] This is borne out by our investigation, which revealed that clients served by the Office of Small Business Permit Specialists stationed in the Permit Center rarely possess any knowledge of the FYF program or Proposition H when they visit the Permit Center. This suggests that efforts to promote these programs are simply not reaching many actual or aspiring small business owners.

Efforts have been made to understand how small businesses learn about programs designed to help them. In a survey conducted last year of businesses participating in the FYF program, 19% of those surveyed said "they saw marketing material in a flier,

---

[95] San Francisco Small Business Commission and San Francisco State University, "2022 Small Business Survey on Economic Recovery," March 2023 ("2022 SF State Survey"), at 11, https://sf.gov/sites/default/files/2023-05/2022%20SBC%20Small%20Business%20Survey%20%281%29.pdf.

[96] 2022 SF State Survey, at 7.

online, or in an email newsletter."[97] The 2021 San Francisco State University survey found that most of the small businesses surveyed reported getting information about small business initiatives via email, followed by City agency websites, the Office of Small Business, local merchants' associations, and OEWD outreach.[98] The 2022 follow-up to that survey found that small business owners from different ethnic groups may get information from different channels (some prefer email, others prefer newspapers or television), which means that to be most effective, "a variety of outreach methods are needed."[99]

Many businesses in the 2021 survey also "talked about a lack of cohesion in the way information was disseminated, and suggested a central repository for information."[100] A possible example of this lack of cohesion appears in the 2022 First Year Free Interim report, which noted that at least two of the involved departments were doing separate outreach on their delivery of program services using their own networks to disseminate information.[101] This fragmented approach may leave small businesses with either an incomplete or perhaps even a mistaken view of what is required, or with insufficient information and confusion about the right administrative body to contact for clarification. This need for better coordination echoes the discussion earlier in this report about the challenges that arise when multiple departments are responsible for administering different aspects of the City's small business assistance programs.

As noted above, the various neighborhood merchant groups throughout the City are important sources of information about small business assistance programs. They can be an effective conduit to get program information to their members, which might

---

[97] Office of the Treasurer & Tax Collector First Year Free Survey Results, April 2022, at 10.

[98] 2021 SF State Survey, at 41.

[99] 2022 SF State Survey, at 22.

[100] 2021 SF State Survey, at 41.

[101] FYF Interim Report, at 4.

include prospective small business owners. Yet, the 2021 San Francisco State University survey found that only 28% of small businesses surveyed felt supported by the local merchant community.[102] It is also significant to note that one San Francisco neighborhood merchants' association, which meets regularly and represents a vibrant and growing small business sector with an active membership, reported a substantial lack of familiarity regarding First Year Free and Proposition H. Moreover, these programs were not a prominent discussion topic in their association meeting records or newsletters.

Another valuable but potentially underutilized resource for generating effective outreach to small businesses are the individual offices of each member of the Board of Supervisors. Each Supervisor already maintains communication with business owners in their district; some Supervisors regularly meet with small businesses in their respective districts or occasionally walk the local commercial corridors. The individual Supervisors may know about vacant commercial storefronts and may be in a position to assist prospective small business owners looking for locations in their district.

We noted excellent efforts by some individual Supervisors to conduct outreach to the small business community, but it is not clear that there is a systematic process in place whereby each Supervisor has undertaken a commitment to conduct such outreach on a regular basis. We recommend that the Board of Supervisors adopt a commitment that each of its members will schedule, publicize, and conduct regular small business outreach sessions in each Supervisorial district. These efforts will help ensure that the small business community in each District can be updated about small business assistance initiatives, and can seek and obtain needed information and assistance, including referral to the Office of Small Business when that is warranted.

While outreach efforts by individual merchants' associations and individual Supervisors are important, they are not a substitute for systematic, effective and well-coordinated outreach from the City agencies responsible for providing

[102] 2021 SF State Survey, at 40.

information about San Francisco's small business assistance programs. The Office of Small Business (OSB) currently does the most to get the word out about the City's small business assistance efforts. OSB has excellent online materials, and is a regular presence at meetings of the San Francisco Council of District Merchants Associations, whose membership includes all of the individual City neighborhood merchants' groups. OSB seems best positioned to take the lead in coordinating the dissemination of small business assistance program information throughout San Francisco neighborhoods.

Such efforts by OSB will require the active cooperation of other City departments as well, to ensure that the information provided is current and complete. In addition, any outreach materials provided on City web sites must be presented in a user-friendly format, and efforts should also be made to reach small business owners who may not be online.[103] For example, increased and regular presence by City representatives at neighborhood association meetings and events would be beneficial. We recognize that such an expansion of OSB's responsibility for citywide outreach regarding San Francisco's various small business assistance initiatives will require additional staffing, but the benefits to San Francisco's struggling small business community can mitigate this additional cost as new businesses open, thrive, and contribute tax revenue to the City.

The Office of Economic and Workforce Development (OEWD) can play a role as well in helping to spread the word about small business assistance programs. OEWD's Community Economic Development team is able to reach current and prospective small business owners in neighborhoods that may not have active merchants' associations and might otherwise be overlooked. The role of the OEWD Community Economic Development team in conducting outreach to the small business community should likewise be expanded, in support of the other OSB-coordinated efforts to reach all existing and prospective small business owners in the City.

---

[103] For example, the 2022 SF State Survey noted that older business owners cited "technical barriers (lack of computers/computer skills) as a main challenge." 2022 SF State Survey, at 7.

An example of such an effort occurred several years ago, when OEWD, with assistance from OSB, hosted a half-day public San Francisco Small Business Summit. Invitees included major industry leaders such as the San Francisco Chamber of Commerce and SF Travel, as well as small business owners and a variety of small business leaders from neighborhood commercial districts. The meeting included presentations about small business initiatives, and discussion of the challenges facing San Francisco's small businesses and how the City could help them navigate those challenges. The Jury recommends that OEWD and OSB revive the in-person Small Business Summit process on at least an annual basis.[104]

A complementary Citywide effort is also required to motivate San Francisco residents to support their small business community. In the 2021 San Francisco State University survey, 1 in 3 of the small business owner respondents cited the need for "greater marketing and messaging to encourage residents to support local small businesses," a comment that 21% of survey respondents echoed in the 2022 follow-up survey.[105] The City's recent campaigns to promote Small Business Week and to support patronage of Downtown businesses are good examples of such an effort.

But the effort to coordinate and amplify the City's efforts to promote its small business initiatives should not stop at the City's borders. San Francisco's negative portrayal in the media as an unfavorable place for small businesses has led to "brand tarnish" that should be addressed. To be most effective, the City's efforts to conduct broader, more coordinated local outreach should be part of a broader media campaign to promote the City's small business community not only to all San Franciscans, but to anyone who may be seeking to visit the City or open a business here.

---

[104] The City Administrator conducted a "virtual" Small Business Summit in 2021, a format which may have been necessary due to lingering concerns about the pandemic. https://sf.gov/san-francisco-small-business-summit. An in-person summit is more likely to draw business owners of all types, including those who lack computer access or computer skills.

[105] 2021 SF State Survey, at 47; 2022 SF State Survey, at 15.

What is needed is an expanded and unified marketing effort, facilitated by the Office of Small Business in coordination with other City departments, directed to existing small business owners, merchants' associations, San Francisco residents, and future San Francisco visitors and business owners. This effort should include new outreach materials and messages, presented in creative formats across different media outlets. We recommend that the City invest in and undertake a sophisticated marketing campaign promoting its small business community, designed to reach Bay Area residents and beyond, to encourage visitors and those who seek to start new businesses, and to encourage the patronization of our existing small businesses. The goal for this broad effort would be to reverse the lingering negative perception of San Francisco and to put on display the positive steps the City has made to support its existing small businesses and to welcome new ones.

The following list of Recommendations includes several that the Jury believes will promote broader and more effective outreach regarding the City's small business assistance programs.

Findings and Recommendations

Finding 1

First Year Free has been generally well-received by small businesses and City agencies, but due to its limited scope when first adopted and its status as a temporary pilot program, its financial benefits to small businesses have been more modest than initially expected.

Recommendation 1

By November 30, 2023, the Mayor and Board of Supervisors should take the legislative and budgetary steps necessary to make First Year Free a permanent program.

Finding 2

The lack of a current published list of fees subject to waiver under the FYF program makes it difficult for eligible businesses to decide whether to participate in the program and hinders the City's ability to implement and promote its benefits.

Recommendation 2

By January 1, 2024, the Office of Treasurer and Tax Collector should prepare a "master list" of all fees subject to waiver under the First Year Free program, which should be regularly updated and disseminated to the public, to the Office of Small Business and to all City agencies and departments that impose fees covered by the program.

Finding 3

Businesses enrolled in First Year Free have been charged fees that should have been waived, which imposes burdens on the City personnel who must manually correct such errors and on the small businesses whose waivers have been delayed.

Recommendation 3

By January 1, 2024, the Mayor should direct that the Office of Treasurer and Tax Collector, the Planning Department, the Department of Building Inspection, the Department of Public Health, the Department of Public Works, the Entertainment Commission, the Fire Department, the Police Department, and any other City departments that impose fees covered by the First Year Free program, should implement procedures to ensure that fees are properly waived for all businesses enrolled in First Year Free, that any billing errors are promptly identified, and that any fees that are improperly charged are promptly refunded to the affected business without requiring any action by the affected business.

Finding 4

There is no mechanism (outside the Online Portal) that accurately tracks eligibility for, or compliance with, the 30-day permit processing provision of Proposition H (as defined in this report), so it is not possible to credibly assess whether Proposition H is achieving its intended goals.

Recommendation 4

By November 30, 2023, the Mayor, in consultation with the Office of the City Administrator, should convene a working group of all departments and agencies

involved in assisting small businesses whose commercial projects are eligible for 30-day permit processing under Proposition H (as defined in this report), which will be tasked with promptly developing and implementing mechanisms and procedures to (a) accurately determine eligibility under Proposition H for 30-day permit processing; and (b) accurately and regularly track and publicly report the City's compliance with the 30-day timeline.

Finding 5

The statutory protection for the provisions of Proposition H (as defined in this report) regarding 30-day permit processing and the elimination of neighborhood notification will expire in December 2023, but reliable data to assess the effectiveness of these provisions is not expected to be available by that time.

Recommendation 5

By November 30, 2023, the Board of Supervisors should resolve to allow an additional period of three years (from December 2023 through December 2026) before initiating or considering proposals to delete or amend the provisions of Proposition H (as defined in this report) requiring 30-day permit processing and elimination of neighborhood notification for eligible commercial projects.

Finding 6

The lack of regular cross-departmental meetings focused on small business issues between the Office of Small Business and City departments involved in business registration, planning and permitting hinders the development and implementation of coordinated approaches and solutions.

Recommendation 6

By November 30, 2023, the Mayor should establish an inter-departmental working group, chaired by the Office of Small Business, with membership from City departments involved in small business registration, planning, and permitting, which shall hold regular cross-departmental meetings to collaborate on implementation and troubleshooting of programs to assist small businesses, including but not limited to First Year Free and Proposition H.

Finding 7

The computer systems of City departments involved in business registration, planning and permitting are not adequately integrated, and there is a growing need for these departments to conduct their operations on a federated computer system that will improve efficiency and cross-departmental collaboration.

Recommendation 7

By March 1, 2024, the Mayor and Board of Supervisors should take the legislative and budgetary steps necessary for the City to implement a cross-departmental technology integration strategy for the deployment of a federated computer system that will increase data visibility across all departments involved in business registration, planning, and permitting, for improved collaboration and to enable compilation of disparate system data into transparent and usable output for small business customers.

Finding 8

Substantial outreach efforts by the City departments responsible for promoting First Year Free and Proposition H have not yet fully informed small businesses and merchants' associations, because those efforts have not been sufficiently comprehensive and coordinated.

Recommendation 8.1

By December 31, 2023, OSB, in consultation with OEWD and other departments responsible for small business assistance programs, with the participation of the San Francisco Chamber of Commerce and neighborhood merchants' associations, should schedule a public Small Business Summit, to be held on at least an annual basis, to promote small business assistance programs and to address obstacles faced by small businesses, and produce a public Summit report listing action items.

Recommendation 8.2

By December 31, 2023, OSB should prepare a user-friendly guide for small businesses in paper and electronic format describing First Year Free and streamlined permit processing under Proposition H, including instructions regarding how to access these benefits and how to use the Online Portal. OSB should distribute this guide online, at the Permit Center and to San Francisco merchants' associations.

Recommendation 8.3

By February 1, 2024, OSB should develop and regularly update a public dashboard or scorecard that demonstrates the impact of San Francisco's small business assistance programs.

Recommendation 8.4

By November 30, 2023, OEWD should commit to report at Small Business Commission meetings at least once a year regarding developments, practices, trends, initiatives, investments and potential or proposed policies or legislation affecting San Francisco's small businesses.

Recommendation 8.5

By December 31, 2023, each member of the Board of Supervisors should conduct meetings on at least a quarterly basis with small businesses and merchants' associations within his or her district, to address issues impacting small business formation and operation and potential solutions, and to disseminate information (with appropriate contact information for City personnel) regarding small business assistance programs such as First Year Free, Proposition H, and any materials developed in response to R8.2 and R8.3 above. Each Supervisor should include a summary report of each such meeting in any publication or newsletter issued by his or her office and provide a copy to OSB.

Finding 9

Despite recent reforms, there remains a prevalent perception that San Francisco is inhospitable to small businesses, and City agencies have not deployed the resources required to effectively counter that perception.

Recommendation 9

By January 31, 2024, the Mayor and Board of Supervisors, in consultation with OSB, should approve funding sufficient to develop and launch a sophisticated marketing

campaign to promote San Francisco as a welcoming and supportive environment for new small businesses to open, and to encourage support for existing small businesses, with reference as appropriate to programs such as First Year Free and Proposition H.

Required and Invited Responses

Required Responses

Pursuant to California Penal Code §933, the Jury requests responses to the following Findings and Recommendations from these City institutions:

- Mayor within 60 calendar days;
- San Francisco Board of Supervisors within 90 calendar days;
- Office of the Treasurer and Tax Collector within 60 calendar days

Respondent	Findings	Recommendations
Office of the Mayor	F1, F4, F5, F8, F9	R1, R3, R4, R6, R7, R8.1, R8.2, R8.3, R8.4, R9
San Francisco Board of Supervisors	F1, F9	R1, R5, R7, R8.5, R9
Office of the Treasurer and Tax Collector	F1, F2, F3, F6, F7	R1, R2, R3

Invited Responses

The Jury requests responses to the following Findings and Recommendations from these City departments within 60 calendar days:

Respondent	Findings	Recommendations
Office of the City Administrator		R4, R7
Office of Small Business	F2, F3, F4, F5, F6, F7, F8, F9	R6, R8.1, R8.2, R8.3, R9

Office of Economic and Workforce Development	F8, F9	R8.1, R8.4, R9
San Francisco Planning Department	F4, F5, F6, F7, F8	R3, R4, R6
San Francisco Department of Building Inspection	F3, F4, F5, F6, F7	R3, R4, R6
San Francisco Department of Public Health		R3
San Francisco Department of Public Works		R3
San Francisco Entertainment Commission		R3
San Francisco Fire Department		R3
San Francisco Police Department		R3

Methodology

Facts that are the basis of this report were obtained from three sources:

- Published public resources: news reports from various media; formal reports from multiple City departments; and public online resources of multiple City departments. Jurors made one informal visit to the Permit Center.

- Interviews of City officials, front-line City department workers, and members of the public. All interviews were conducted in confidence. Each interviewee was administered an admonition of confidentiality, and promised that no fact or quotation would be directly attributed to that person. The Juror oath requires that each Juror not reveal any details of an investigation not contained in the published report of that investigation. Interviewees for this report were cooperative and supportive of the work of the Jury. Seventeen formal interviews were conducted.

- After reviewing the notes of an interview, the Jury frequently made one or more written requests to the interviewee for clarification, additional information, or access to documents not publicly available. Again, interviewees for this report were cooperative and supportive of the work of the Jury. Approximately sixty requests for documents or additional information were made.

Before publication, this report was reviewed by the City Attorney and the Superior Court.

Glossary

BAN (Business Account Number): Generally new businesses are required to register with the San Francisco Office of the Treasurer and Tax Collector. A new Business Account Number is assigned for future filings with that office, particularly annual tax returns.

LIN (Location Identification Number): Businesses registered with the San Francisco Office of the Treasurer and Tax Collector must specify the locations where business is conducted within the city. Each location is identified by a Location Identification Number.

Neighborhood Commercial District: Neighborhood Commercial Districts are low to high density mixed-use neighborhoods of varying scale established around historical neighborhood commercial centers. The Neighborhood Commercial Districts are intended to support neighborhood-serving uses on the lower floors and housing above. These Districts tend to be linear commercial corridors, but may also include small clusters of commercial activity in Residential Districts. Individually named Neighborhood Commercial Districts are intended to provide for more targeted residential and commercial controls to fit the needs of their respective neighborhoods. San Francisco Planning Code, Article 7, Section 702(a)(1).

Neighborhood Commercial Transit District: Neighborhood Commercial Transit Districts (NCTDs) are transit-oriented moderate- to high-density mixed-use neighborhoods of varying scale concentrated near transit services. The NCTDs are mixed use districts that support neighborhood-serving commercial uses on lower floors and housing above. These districts are well-served by public transit and aim to maximize residential and commercial opportunities on or near major transit services. The district's form can be either linear along transit-priority corridors, concentric

around transit stations, or broader areas where transit services criss-cross the neighborhood. San Francisco Planning Code, Article 7, Section 702(a)(2).

Principally Permitted Use: The Planning Code defines a "principally permitted" use (or "principal use") as a use that is "permitted as of right" in that particular district.

Storefront Commercial Use: A commercial–not residential–use at a location with a street-facing façade that is publicly accessible.