

File No. 141265

Committee Item No. 5
Board Item No. 3

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Land Use & Development

Date Jan. 12, 2015

Board of Supervisors Meeting

Date February 3, 2015

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry Date Jan. 7, 2015
Completed by: Alisa Somera Date January 15, 2015

[Police Code - Property Services Contractors at Formula Retail Establishments]

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Ordinance amending the Police Code to require Formula Retail Establishments that have entered into contracts with Property Services Contractors that are in effect between ~~April 4~~ January 4, 2015, and July 3, 2015, to provide such contractors with copies of Police Code, Articles 33F, and 33G, which establish certain rights of employees of such contractors.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Article 33 F of the Police Code is hereby amended by adding Section 3300F.20 to read as follows (Sections 3300F.2 and 3300F.3 reprinted herein without revision, for reference):

* * * *

SEC. 3300F.2. DEFINITIONS.

For purposes of this Article 33F, the following definitions apply:

* * * *

“Employer” shall mean any Person that owns or operates a Formula Retail Establishment with 20 or more Employees in the City, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including

1 through the services of a temporary services or staffing agency or similar entity, employs or
2 exercises control over the wages, hours or working conditions of any individual. For the
3 purpose of calculating the 20-employee threshold referenced herein, Employees performing
4 work in other Formula Retail Establishments in the City that are owned or operated under the
5 same trade name by the same Employer shall be counted. Notwithstanding the foregoing
6 definition, "Employer" does not include a Nonprofit Corporation or governmental entity.

7 * * * *

8 "Formula Retail Establishment" shall mean a business located in San Francisco that
9 falls under the Planning Code's definition of "Formula Retail Use," as amended from time to
10 time, except that the business must have at least 20 retail sales establishments located
11 worldwide.

12 * * * *

13 "Property Services Contractor" shall mean any contractor or subcontractor of an
14 Employer that provides janitorial and/or security services to the Employer at a Formula Retail
15 Establishment in San Francisco covered by this Article 33F.

16
17 **SEC. 3300F.3. OFFERING ADDITIONAL WORK TO PART-TIME EMPLOYEES.**

18 (a) Subject to the limitations herein, before hiring new Employees or using contractors
19 or a temporary services or staffing agency to perform work in a Formula Retail Establishment,
20 an Employer shall first offer the additional work to existing Part-time Employee(s) if: (1) the
21 Part-time Employee(s) are qualified to do the additional work, as reasonably determined by
22 the Employer and (2) the additional work is the same or similar to work the Employee(s) have
23 performed for the Formula Retail Establishment. This Section 3300F.3 requires Employers to
24 offer to Part-time Employees only the number of hours required to give the Employee 35
25 hours of work in a week.

1 (b) An Employer has discretion to divide the additional work hours among Part-time
2 Employees consistent with this section.

3 (c) A Part-time Employee may, but is not required to, accept the Employer's offer of
4 additional work hours under this Section.

5 (d) When this Section requires an Employer to offer additional work hours to existing
6 Part-time Employees, the Employer shall make the offer in writing and shall retain each
7 written offer no less than three years as required under Section 3300F.8.

8 (e) The requirements imposed by this Section 3300F.3 shall apply to Property
9 Services Contractors as to work performed in San Francisco at a Formula Retail
10 Establishment covered by this Article 33F, under a contract with an Employer. An Employer
11 shall include in any such contract executed on or after the operative date of this Article 33F,
12 (1) a provision requiring the Property Services Contractor to comply with this Section and (2) a
13 copy of this Section. The Employer shall retain copies of such contracts for a period of not
14 less than three years following the expiration or termination of the contract, and make such
15 copies available to the Agency for inspection upon request. In addition, Sections 3300F.7,
16 3300F.8, 3300F.9, 3300F.10, 3300F.11, and 3300F.12 of this Article shall apply to a Property
17 Services Contractor as if it is an Employer for purposes of notice, record retention,
18 compliance, investigation, and enforcement of the requirements of this Section 3300F.3.

19
20 **SEC. 3300F.20. PROVIDING COPIES OF THIS ARTICLE TO PROPERTY SERVICES**
21 **CONTRACTORS.**

22 *For any contract described in Section 3300F.3(e) between a Property Services Contractor and*
23 *an Employer that is in effect as of April 1 January 4, 2015, the Employer shall provide a copy of this*
24 *Article 33F to the Property Services Contractor on or before April 15, 2015. For any such contract*
25 *executed between April 1 January 4, 2015 and July 3, 2015, the Employer shall provide a copy of this*

1 Article 33F to the Property Services Contractor within ten days of the date the parties execute the
2 contract. This section 3300F.20 shall expire by operation of law one year after the effective date of this
3 Article 33F. After that date, the City Attorney shall cause this Section 3300F.20 to be removed from
4 the Police Code.

5
6 Section 2. Article 33G of the Police Code is hereby amended by revising Section
7 3300G.5 and adding Section 3300G.19 to read as follows (Sections 3300G.3 and 3300G.4
8 reprinted herein without revision, for reference):

9 **SEC. 3300G.3. DEFINITIONS.**

10 For purposes of this Article 33G, the following definitions apply:

11 * * * *

12 "Employer" shall mean any Person that owns or operates a Formula Retail
13 Establishment with 20 or more Employees in the City, including corporate officers or
14 executives, who directly or indirectly or through an agent or any other person, including
15 through the services of a temporary services or staffing agency or similar entity, employs or
16 exercises control over the wages, hours, or working conditions of any individual. For the
17 purpose of calculating the 20-employee threshold referenced herein, Employees performing
18 work in other Formula Retail Establishments in the City that are owned or operated under the
19 same trade name by the same Employer shall be counted. Notwithstanding the foregoing
20 definition, "Employer" does not include a Nonprofit Corporation or governmental entity.

21 "Formula Retail Establishment" shall mean a business located in San Francisco that
22 falls under the Planning Code's definition of "Formula Retail Use," as amended from time to
23 time, except that the business must have at least 20 retail sales establishments located
24 worldwide.

25 * * * *

1 "Property Services Contractor" shall mean any contractor or subcontractor of an
2 Employer that provides janitorial and/or security services to the Employer at a Formula Retail
3 Establishment in San Francisco covered by this Article 33G.
4

5 **SEC. 3300G.4. ADVANCE NOTICE OF WORK SCHEDULES AND CHANGES IN**
6 **WORK SCHEDULES.**

7 (a) Initial Estimate of Minimum Hours.

8 (1) Prior to the start of employment, an Employer shall provide a new Employee
9 with a good faith estimate in writing of the Employee's expected minimum number of
10 scheduled shifts per month, and the days and hours of those shifts. The estimate shall not
11 include On-Call Shifts. The estimate shall not constitute a contractual offer and the Employer
12 shall not be bound by the estimate.

13 (2) Prior to the start of employment, the Employee may request that the
14 Employer modify the proposed work schedule provided under subsection (a)(1) of this Section
15 3300G.4. The Employer shall consider any such request, and in its sole discretion may
16 accept or reject the request, provided that the Employer shall notify the Employee of its
17 determination prior to the start of employment.

18 (b) Two Weeks' Notice of Work Schedules.

19 An Employer shall provide its Employees with at least two weeks' notice of their work
20 schedules by doing one of the following at least every 14 days (on a "Biweekly Schedule"): (1)
21 posting the work schedule in a conspicuous place at the workplace that is readily accessible
22 and visible to all Employees, or (2) transmitting the work schedule by electronic means, so
23 long as all Employees are given access to the electronic schedule at the workplace. For new
24 Employees, an Employer shall provide the new Employee on his or her first day of
25 employment with an initial work schedule that runs through the date that the next Biweekly

1 Schedule for existing Employees is scheduled to be posted or distributed; thereafter, the
2 Employer shall include the new Employee in an existing Biweekly Schedule with other
3 Employees. For all Employees, the work schedule shall include any On-Call Shifts, where
4 applicable. If the Employer changes the work schedule after it is posted and/or transmitted,
5 such changes shall be subject to the notice and compensation requirements set forth in
6 subsection (c) of this Section 3330G.4.

7 (c) Notice and Compensation For Schedule Changes.

8 (1) Notice Required. An Employer shall provide an Employee notice of any
9 change to the Employee's schedule that has been posted or transmitted pursuant to
10 subsection (b) of this Section 3300G.4. The Employer shall provide such notice by in-person
11 conversation, telephone call, or email, text message, or other electronic communication. This
12 notice requirement shall not apply to any schedule changes that the Employee requests, such
13 as Employee-requested sick leave, time off, shift trades, or additional shifts.

14 (2) Predictability Pay For Schedule Changes. Subject to the exceptions in
15 subsection (e) of this Section 3300G.4, an Employer shall provide an Employee with the
16 following compensation per shift for each previously scheduled shift that the Employer moves
17 to another date or time or cancels, or each previously unscheduled shift that the Employer
18 requires the Employee to come into work:

19 (A) With less than seven days' notice but 24 hours or more notice to the
20 Employee, one hour of pay at the Employee's regular hourly rate;

21 (B) With less than 24 hours' notice to the Employee, two hours of pay at
22 the Employee's regular hourly rate for each shift of four hours or less; and

23 (C) With less than 24 hours' notice to the Employee, four hours of pay at
24 the Employee's regular hourly rate for each shift of more than four hours.

1 Where the Employee is required to come into work, the compensation mandated by
2 this subsection (c)(2) shall be in addition to the Employee's regular pay for working that shift.
3 This subsection (c)(2) shall not apply to On-Call Shifts.

4 (d) Pay for On-Call Shifts. Subject to the exceptions in subsection (e) of this Section
5 3300G.4, an Employer shall provide an Employee with the following compensation for each
6 On-Call Shift for which the Employee is required to be available but is not called in to work:

7 (1) Two hours of pay at the Employee's regular hourly rate for each On-Call
8 Shift of four hours or less; and

9 (2) Four hours of pay at the Employee's regular hourly rate for each On-Call
10 Shift of more than four hours.

11 This subsection (d) shall not apply when the Employee is in fact called in for the On-
12 Call Shift or the Employer provides the Employee with 24 hours' or more notice that the On-
13 Call Shift has been cancelled or moved to another date or time.

14 (e) Exceptions. The requirements in subsections (c) and (d) of this Section 3300G.4
15 shall not apply under any of the following circumstances:

16 (1) Operations cannot begin or continue due to threats to Employees or
17 property, or when civil authorities recommend that work not begin or continue;

18 (2) Operations cannot begin or continue because public utilities fail to supply
19 electricity, water, or gas, or there is a failure in the public utilities, or sewer system;

20 (3) Operations cannot begin or continue due to an Act of God or other cause
21 not within the Employer's control, for example, an earthquake or a state of emergency
22 declared by the Mayor or the Governor;

23 (4) Another Employee previously scheduled to work that shift is unable to work
24 due to illness, vacation, or employer-provided paid or unpaid time off where the Employer did
25 not receive at least seven days' notice of the absence;

1 (5) Another Employee previously scheduled to work that shift has not reported
2 to work on time and/or is fired or sent home or told to stay home as a disciplinary action;

3 (6) The Employer requires the Employee to work overtime (i.e., mandatory
4 overtime); or

5 (7) The Employee trades shifts with another Employee or requests from the
6 Employer a change in shift(s), hours, or work schedule.

7 (f) Nothing in this Section 3300G.4 shall be construed to prohibit an Employer from
8 providing greater advance notice of Employees' work schedules and/or changes in schedules
9 than that required by this Section.

10 (g) The requirements imposed by this Section 3300G.4 shall apply to Property
11 Services Contractors as to work performed in San Francisco at a Formula Retail
12 Establishment covered by this Article 33G, under a contract with an Employer. An Employer
13 shall include in any such contract executed on or after the operative date of this Article 33G,
14 (1) a provision requiring the Property Services Contractor to comply with this Article and (2) a
15 copy of this Article. The Employer shall retain copies of such contracts for a period of not less
16 than three years following the expiration or termination of the contract, and make such copies
17 available to the Agency for inspection upon request. In addition, Sections 3300G.6, 3300G.7,
18 3300G.9, 3300G.10, and 3300G.11 of this Article shall apply to a Property Services
19 Contractor as if it is an Employer for purposes of notice, record retention, compliance,
20 investigation, and enforcement of the requirements of this Section 3300G.4.

21
22 **SEC. 3300G.5. EQUAL TREATMENT FOR PART-TIME EMPLOYEES.**

23 (a) Hourly Wage. Employers shall provide Part-Time Employees with the same
24 starting hourly wage as that provided to starting Full-Time Employees who hold jobs that
25 require equal skill, effort, and responsibility, and that are performed under similar working

1 conditions, provided that hourly pay differentials between Part-Time and Full-Time Employees
2 are permissible if such differentials are based on reasons other than the Part-Time status of
3 the Employee, such as a seniority system, merit system, system which measures earnings by
4 quantity or quality of production, performance or responsibilities. This subsection (a) shall not
5 affect the minimum hourly requirements for receipt of benefits including but not limited to
6 health care benefits.

7 (b) Access to Time Off. Employers shall provide Part-Time Employees with the same
8 access to Employer-provided paid and unpaid time off as that afforded to Full-Time
9 Employees for the same job classification. A Part-Time Employee's eligibility for Employer-
10 provided paid or unpaid time off may be pro-rated based on the number of hours that the Part-
11 Time Employee works. This subsection (b) shall not apply to Employers that are subject to
12 the Minimum Compensation Ordinance, Administrative Code Chapter 12P.

13 (c) Eligibility for Promotions. Employers shall provide Part-Time Employees with the
14 same eligibility for promotions as that afforded to Full-Time Employees for the same job
15 classification, provided that an Employer may condition eligibility for promotion on the
16 Employee's availability for Full-Time employment and on reasons other than the Part-Time
17 status of the Employee, such as nature and amount of work experience.

18 (gd) The requirements imposed by this Section 3300G.5 shall apply to Property
19 Services Contractors as to work performed in San Francisco at a Formula Retail
20 Establishment covered by this Article 33G, under a contract with an Employer. An Employer
21 shall include in any such contract executed on or after the operative date of this Article 33G,
22 (1) a provision requiring the Property Services Contractor to comply with this Article and (2) a
23 copy of this Article. The Employer shall retain copies of such contracts for a period of not less
24 than three years following the expiration or termination of the contract, and make such copies
25 available to the Agency for inspection upon request. In addition, Sections 3300G.6, 3300G.7,

1 3300G.9, 3300G.10, and 3300G.11 of this Article shall apply to a Property Services
2 Contractor as if it is an Employer for purposes of notice, record retention, compliance,
3 investigation, and enforcement of the requirements of this Section 3300G.5.
4

5 **SEC. 3300G.19. PROVIDING COPIES OF THIS ARTICLE TO PROPERTY SERVICES**

6 **CONTRACTORS.**

7 For any contract described in Sections 3300G.4(g) and 3300G.5(d) between a Property
8 Services Contractor and an Employer that is in effect as of ~~April 1~~ January 4, 2015, the Employer
9 shall provide a copy of this Article 33G to the Property Services Contractor on or before April 15,
10 2015. For any such contract executed between ~~April 1~~ January 4, 2015 and July 3, 2015, the
11 Employer shall provide a copy of this Article 33G to the Property Services Contractor within ten days
12 of the date the parties execute the contract. This section 3300G.19 shall expire by operation of law one
13 year after the effective date of this Article 33G. After that date, the City Attorney shall cause this
14 Section 3300G.19 to be removed from the Police Code.
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16 Section 3. Effective Date.

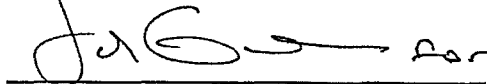
17 This ordinance shall become effective 30 days after enactment. Enactment occurs
18 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
19 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
20 Mayor's veto of the ordinance.
21

22 Section 4. In enacting this ordinance, the Board intends to amend only those words,
23 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,
24 or any other constituent part of the Police Code that are explicitly shown in this ordinance as
25

1 additions, deletions, Board amendment additions, and Board amendment deletions in
2 accordance with the "Note" that appears under the official title of the ordinance.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By:



7 JOSHUA WHITE
8 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(1/12/2015, Amended in Committee)

[Police Code - Property Services Contractors at Formula Retail Establishments]

Ordinance amending the Police Code to require Formula Retail Establishments that have entered into contracts with Property Services Contractors that are in effect between January 4, 2015, and July 3, 2015, to provide such contractors with copies of Police Code, Articles 33F, and 33G, which establish certain rights of employees of such contractors.

Existing Law

The Board of Supervisors enacted two ordinances on November 25, 2014 that, collectively, have been referred to as the "Formula Retail Workers' Bill of Rights."

One of the ordinances, No. 236-14, is entitled, "Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance." It requires Formula Retail Establishments to provide employees with two weeks' notice of work schedules, notice of changes to work schedules, and compensation for schedule changes made on less than seven days' notice and unused on-call shifts. The ordinance also provides part-time employees with the same starting rate of hourly pay, access to time off, and eligibility for promotions, as provided to full-time employees. The other ordinance, No. 241-14, requires Formula Retail Establishments to offer additional hours of work, when available, to current part-time employees. The ordinance also requires successor employers to retain employees for 90 days upon a change in control of the business. Both ordinances will become effective at the end of the day on January 4, 2015, and will become operative 180 days thereafter.

The ordinances apply to "Property Services Contractors," defined as contractors or subcontractors of Formula Retail Establishments that provide janitorial and/or security services to Formula Retail Establishments. Both ordinances require Formula Retail Establishments to provide Property Services Contractors with which they execute contracts on or after July 3, 2015 a copy of the ordinances.

The ordinances do not require Formula Retail Establishments to provide copies of the ordinances to Property Service Contractors with which they have existing contracts or with which they enter into contracts before July 3, 2015.

Amendments to Current Law

The proposed legislation would require Formula Retail Establishments that have contracts with Property Services Contractors that are in effect as of January 4, 2015 to provide a copy

FILE NO. 141265

of the "Formula Retail Workers' Bill of Rights" ordinances to the Property Services Contractor on or before April 15, 2015. For any contract between a Formula Retail Establishment and a Property Services Contractor that is executed between January 4, 2015 and July 3, 2015, the Formula Retail Establishment must provide a copy of the "Formula Retail Workers' Bill of Rights" ordinances to the Property Services Contractor within 10 days of the date the parties execute the contract.

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BOARD of SUPERVISORS



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

MEMORANDUM

TO: Greg Suhr, Chief, Police Department
Donna Levitt, Division Manager, Office of Labor Standards Enforcement

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development
Committee, Board of Supervisors

DATE: January 6, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Breed on December 09, 2014:

File No. 141265

Ordinance amending the Police Code to require Formula Retail Establishments that have entered into contracts with Property Services Contractors that are in effect between April 1, 2015, and July 3, 2015, to provide such contractors with copies of Police Code, Articles 33F, and 33G, which establish certain rights of employees of such contractors.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Christine Fountain, Police Department

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development
Committee, Board of Supervisors

DATE: December 30, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 141265

Ordinance amending the Police Code to require Formula Retail Establishments that have entered into contracts with Property Services Contractors that are in effect between April 1, 2015, and July 3, 2015, to provide such contractors with copies of Police Code, Articles 33F, and 33G, which establish certain rights of employees of such contractors.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Breed

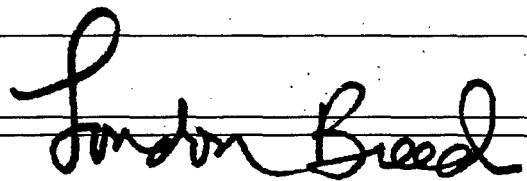
Subject:

Police Code - Property Services Contractors at Formula Retail Establishments

The text is listed below or attached:

Ordinance amending the Police Code to require Formula Retail Establishments that have entered into contracts with Property Services Contractors that are in effect between April 1, 2015 and July 3, 2015 to provide such contractors with copies of Articles 33F and 33G of the Police Code, which establish certain rights of employees of such contractors.

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

