

File No. 200222

Committee Item No. \_\_\_\_\_

Board Item No. 38

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: March 3, 2020

#### Cmte Board

- |                          |                                     |                                              |
|--------------------------|-------------------------------------|----------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input 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 type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input 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                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

<input type="checkbox"/>	<input type="checkbox"/>	_____
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Prepared by: Lisa Lew

Date: February 28, 2020

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Urging Invalidation of 2019 Revenue Agreement - JC Decaux]

2  
3 **Resolution urging Public Works and the Office of the City Attorney to take immediate**  
4 **steps to cancel the City and County of San Francisco’s Revenue Agreement with JC**  
5 **Decaux, including ceasing implementation of its lucrative Grant of Advertising Rights.**  
6

7 WHEREAS, Since August 2, 1994, the City and County of San Francisco and JC  
8 Decaux, San Francisco, Inc. (formerly JC Decaux United Street Furniture, Inc., hereinafter “JC  
9 Decaux”) has provided public toilets and newspaper kiosks which also serve as advertising  
10 space in San Francisco’s public rights of way pursuant to a contractual agreement that has  
11 been amended from time to time over the past quarter century; and

12 WHEREAS, On April 26, 2016, the San Francisco Department of Public Works (“Public  
13 Works”) issued a competitive solicitation through its Request for Proposals public toilets and  
14 advertising kiosks to which JC Decaux was the sole respondent, only two months later, on  
15 June 24, 2016; and

16 WHEREAS, The April 2016 Request for Proposal followed an initial Request for  
17 Proposal in 2015 which, among other provisions, required submissions within an abbreviated  
18 period of just 120 days, which was ultimately altered and re-issued as the April 2016 Request  
19 for Proposal; and

20 WHEREAS, On July 23, 2019, the Board of Supervisors retroactively approved the  
21 resulting Revenue Agreement between Public Works and JC Decaux (the “2019 Revenue  
22 Agreement”) for an automatic public toilet and public service kiosk program with anticipated  
23 revenues of approximately \$12,950,000 over a term of 21.5 years commencing on July 1,  
24 2019; and  
25

1           WHEREAS, Under the Revenue Agreement, the approximately \$12,950,000 in  
2 revenue over 21.5 years consists of a one-time payment of \$1,500,000, an Annual  
3 Administrative Fee, and an Advertising Revenue Percentage Fee, and a Non-Advertising  
4 Percentage Fee; and

5           WHEREAS, Over the course of 20 years between 1997 and 2017, JC Decaux  
6 generated approximately \$125 million in ad revenue through its kiosks situated in San  
7 Francisco's public rights of way, and paid a dismal 5.8 percent of that revenue to the City, for  
8 a total of about \$7.3 million in revenue, or approximately \$365,000 per year; and

9           WHEREAS, The analogous advertising revenue agreement between the City and  
10 County of San Francisco and Clear Channel for utilization of advertising space on Muni  
11 shelters requires the remittance of 55 percent of ad revenue to the City, while the advertising  
12 revenue agreement between the City and County of San Francisco and Titan Outdoor for the  
13 utilization of advertising space on Muni vehicles requires the remittance of 65 percent of ad  
14 revenue to the City; and

15           WHEREAS, On January 28, 2019, the United States District Court for the Northern  
16 District of California unsealed a 75-page criminal complaint announcing fraud charges against  
17 former Director of Public Works Mohammed Nuru, who in his capacity as Director of Public  
18 Works oversaw the terms set forth in both the 2015 and 2016 Requests for Proposal and the  
19 negotiations which resulted in the renewed 2019 Revenue Agreement; and

20           WHEREAS, Throughout this process, then-Director Nuru personally lobbied several  
21 members of the Board of Supervisors to ensure that the 2019 Revenue Agreement would  
22 ultimately be adopted by the City and County of San Francisco; and

23           WHEREAS, In the wake of voluminous allegations of fraud on behalf of then-Director  
24 Nuru over the course of this time period, additional concerns have surfaced regarding the  
25 relationship between Nuru and JC Decaux, including concerns set forth in local news outlet

1 Mission Local that Nuru was “wined and dined” at JC Decaux’s “elegant waterfront farmhouse  
2 in the bucolic Parisian suburb of Plaisir”; and

3 WHEREAS, The Board of Supervisors understands that the independent Office of the  
4 City Attorney is investigating the circumstances surrounding these allegations specifically as  
5 they relate to the 2019 Revenue Agreement; and

6 WHEREAS, The Board of Supervisors is deeply concerned that those allegations will  
7 result in findings that the City was misled as to its leverage in the crafting of the Request for  
8 Proposal and resulting 2019 Revenue Agreement, including with respect to the Advertising  
9 Revenue Percentage Fee, and that it was fraudulently induced into the 2019 Revenue  
10 Agreement; now, therefore, be it

11 RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
12 urges the San Francisco Department of Public Works and the Office of the City Attorney to  
13 inform the Board of Supervisors of its legal status relative to canceling the City’s contract with  
14 JC Decaux as reflected most recently in the 2019 Revenue Agreement; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors urges Public Works and the  
16 City Attorney’s Office to take all legal steps to cease any further implementation of the 2019  
17 Revenue Agreement, including invalidating the Grant of Advertising Rights which have  
18 generated enormous profits for JC Decaux through its appropriation of public rights of way,  
19 with minimal reciprocal benefit to San Francisco residents and visitors.

Print Form

# Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED  
2/25/2020 @ 5:28pm  
A

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 [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic 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 the Imperative Form.**

Sponsor(s):

Peskin, HANEY, MAV

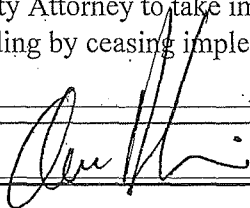
Subject:

[Resolution Urging Invalidation of the 2019 Revenue Agreement with JC Decaux]

The text is listed:

Resolution urging the Department of Public Works and Office of the City Attorney to take immediate steps to cancel the City and County of San Francisco's contract with JC Decaux, including by ceasing implementation of its lucrative Grant of Advertising Rights.

Signature of Sponsoring Supervisor:



For Clerk's Use Only

