

File No. 211105

Committee Item No. _____

Board Item No. 54

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: October 26, 2021

Cmte Board

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|--------------------------|-------------------------------------|--|
| <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

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Prepared by: Lisa Lew

Date: October 22, 2021

Prepared by: _____

Date: _____

1 [Supporting Notice and Compliance Opportunities for Small Businesses Facing Lawsuits or
2 Violations Related to Americans with Disabilities Act Accommodations]

3 **Resolution stating that the City and County of San Francisco supports notice and**
4 **compliance opportunities for small businesses facing lawsuits or violations related to**
5 **Americans with Disabilities Act accommodations; and calling for additional support,**
6 **assistance, and information for Small Businesses to comply with the American with**
7 **Disabilities Act.**

8
9 WHEREAS, The Americans with Disabilities Act has played a critical role in protecting
10 people with disabilities from discrimination in employment, transportation, and access to any
11 facilities open to the public; and

12 WHEREAS, Passed in 1990, the Americans With Disabilities Act did not assign a
13 federal agency to enforce its requirements; and

14 WHEREAS, Under existing federal law, a defendant is deemed liable for damages for
15 each instance of discrimination relating to a construction-based accessibility standard; and

16 WHEREAS, The private right of action to enforce ADA does have an important role in
17 ensuring compliance, yet there is a trend of lawsuits being filed against small businesses to
18 extort settlements in ways that do not actually expand access for the disabled; and

19 WHEREAS, Two plaintiffs have filed over 1,000 combined Americans With Disabilities
20 Act (ADA) lawsuits across California since the pandemic began; and

21 WHEREAS, Small businesses in San Francisco, and particularly in Chinatown, are still
22 recovering from pandemic but are the hardest hit by these financially burdensome lawsuits
23 which can at times cause them to go deep in debt, or even go out of business; and

24 WHEREAS, Senate Bill 269 was signed into law by California Governor Jerry Brown in
25 2016, and gives small businesses the important opportunity to fix ADA violations before

1 getting sued under state law; small businesses with less than 50 employees are now required
2 to be given both notice and time to cure the violation before facing penalties under state law;
3 and

4 WHEREAS, The opportunities to correct violations before facing lawsuits and penalties
5 still does not exist under federal law, in particular the procedural mechanisms imposed by
6 state law under SB 269 are generally not followed by federal courts; and

7 WHEREAS, San Francisco Mayor London N. Breed has expressed concern about
8 predatory ADA lawsuits and their impact on small businesses and subsequently allocated city
9 funds to help businesses conduct American with Disabilities Act compliance inspections and
10 bring merchants up to code; and

11 WHEREAS, San Francisco District Attorney Chesa Boudin has launched a criminal
12 investigation into the series of lawsuits and assembled an advisory task force to support small
13 businesses that are facing ADA lawsuits; now, therefore, be it

14 RESOLVED, The San Francisco Board of Supervisors supports small businesses
15 being provided with notice and opportunities to correct a violation before facing lawsuits or
16 statutory damages, and condemns predatory lawsuits that target vulnerable small businesses;
17 and

18 FURTHER RESOLVED, The San Francisco Board of Supervisors supports the
19 Americans with Disabilities Act, and to fully actualize its goals, by providing adequate and
20 effective outreach, support, and accountability for small businesses to ensure that all people
21 have full access to facilities open to the public; and

22 FURTHER RESOLVED, California law, under SB 269, offers critical opportunities for
23 notice and correction for small businesses when faced with potential ADA violations, and
24 similar provisions should be considered for inclusion within federal law; and

25

1 FURTHER RESOLVED, Additional support should be provided by every level of
2 government for small businesses that face these lawsuits, to provide them with assistance,
3 information, resources, and also that they can cure any violations and effectively ensure
4 access for the disabled; and

5 FURTHER RESOLVED, Additional steps should be taken to provide oversight and
6 accountability for attorneys that engage in predatory ADA lawsuits; and

7 FURTHER RESOLVED, Copies of this Resolution will be distributed to San Francisco's
8 federal and state elected representatives and the Attorney General of the State of California.

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Introduction Form

By a Member of the Board of Supervisors or 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 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):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: