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

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

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

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

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

WHEREAS, the Mayor's Office, the Mayor's Office on Disability, The Mayor's Disability Council, the Department of Public Works, the City Attorney's Office, the Police Department and the Municipal Transportation Agency have each submitted its response to the subject Grand Jury Report, each departmental response is on file with the Clerk of the Board of Supervisors in File No. 100943, each departmental response is hereby declared to be a part
of this resolution as if set forth fully herein, and the Board has reviewed and considered each
departmental response; and

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

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

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

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

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

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

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

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

WHEREAS, Recommendation No. 5 states: "The City should pursue full enforcement and monitoring of incursions to the public rights of way, especially with regards to temporary
sidewalk incursions. Staffing levels must be maintained to address and complete inspections and investigations promptly and to eliminate backlogged cases;" and

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

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

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

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

FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its own the response of the Mayor’s Office on Disability to Finding Nos. 2, 4 and 6, and Recommendation Nos. 2, 4 and 6 of the subject Grand Jury Report; and, be it
FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its own the response of the Department of Public Works to Finding No. 5 and Recommendation No. 5 of the subject Grand Jury Report; and, be it

FURTHER RESOLVED, That Pursuant to Penal Code Section 933.05(c), the Board of Supervisors responds to the findings and recommendations to which it agrees by hereby urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.
Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2009-2010 Civil Grand Jury Report entitled "Americans With Disabilities Act: Is San Francisco In Compliance?"

August 03, 2010 Board of Supervisors - ADOPTED
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

I hereby certify that the foregoing Resolution was ADOPTED on 8/3/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

Mayor Gavin Newsom  
Date Approved

August 12, 2010