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CONSENT CALENDAR
December 19, 2017

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington
Subject: Opposition to H.R. 620 - "The ADA Education and Reform Act of 2017"

RECOMMENDATION:

That the City Council adopt a resolution in opposition to H.R. 620 - "The ADA Education and Reform Act of 2017"

BACKGROUND:

The Consortium for Citizens with Disabilities (CCD) and allies - a group comprised of 217 member organizations representing the needs and interests of disabled individuals- has opposed H.R. 620. On January 24, 2017, Congressman Ted Poe (R) introduced House Resolution (H.R.) 620, the ADA Education and Reform Act of 2017. H.R. 620 requires individuals to give notice to business owners of physical barriers that affect those with disabilities. Without notice, these business owners will be allowed to ignore existing physical barriers that are detrimental to the lives of individuals with disabilities.

These notices pose an unnecessary burden to individuals looking to give notice. The requirements for these notices are extremely particular, requiring specification of (1) the address of the property, (2) the specific ADA sections alleged to have been violated, (3) whether a request for assistance in removing an architectural barrier was made, and (4) whether the barrier was permanent or temporary to property and business owners in order to file civil claims about specific physical barriers.

The passing of H.R. 620 will contradict the American with Disabilities Act (ADA) passed in 1990, violating the rights of disabled citizens in our country. The resolution also grants business owners an unnecessarily long period of time to make "substantial progress" in removing the barriers described in the notices.

Berkeley has been the hometown of many disability rights movements. It is important for the City Council to take a stand with our disabled citizens and adopt a resolution in opposition to H.R. 620.

<https://www.congress.gov/bill/115th-congress/house-bill/620/text>

FINANCIAL IMPLICATIONS: _____ Minimal.

ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON: _____ Councilmember Kriss Worthington 510-981-7170

Attachment: Resolution

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY IN
OPPOSITION TO H.R. 620 - ADA EDUCATION AND REFORM ACT OF 2017

WHEREAS, the American with Disabilities Act (ADA) became law in 1990 and prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public; and

WHEREAS, on January 24, 2017, Congressman Ted Poe (R), representing the 2nd congressional district of Texas introduced House Resolution (H.R.) 620, the ADA Education and Reform Act of 2017; and

WHEREAS, H.R. 620 will require the Department of Justice (DOJ) to develop an educational program to educate state and local governments and property owners on strategies for promoting access to public accommodations for persons living with a disability; and

WHEREAS, H.R. 620 will prohibit the filing of civil claims unless an aggrieved disabled person follows burdensome noticing requirements to business and property owners about a specific physical barrier to a public accommodation, and cites the specific section of the ADA that such business or property owner has violated; and

WHEREAS, H.R. 620 will require disabled aggrieved individuals to render a notice to business and property owners in violation of the ADA; such a notice shall specify: (1) the address of the property, (2) the specific ADA sections alleged to have been violated, (3) whether a request for assistance in removing an architectural barrier was made, and (4) whether the barrier was permanent or temporary; and

WHEREAS, once notice by the business is received, the legislation would grant the business six months to make "substantial progress" in removing the barrier described in the notice. This means a business could spend years without actually removing barriers to come into compliance with longstanding access standards, and face no penalty, so long as "substantial progress" can be claimed; and

WHEREAS, by requiring cumbersome noticing requirements to be presented to business and property owners, H.R. 620 unnecessarily puts the burden of ensuring the compliance with ADA on disabled individuals; and

WHEREAS, H.R. 620 will require the Judicial Conference of the United States to develop a program for alternative dispute resolution mechanisms to resolve such claims; and

WHEREAS, on March 13, 2017, the Consortium for Citizens with Disabilities (CCD) and allies - a group comprised of 217 member organizations representing the needs and interests of disabled individuals - wrote a letter to the Chair and Ranking Member of the House Judiciary, Subcommittee Constitution and Civil Justice opposing H.R. 620; and opposition and dismay over the requirements imposed on disabled individuals to arguments used by the bill's proponents and their aim "to protect business owners from the burden of understanding and complying with rules designed to ensure that people with disabilities could access public accommodations, on the ground that this burden is too heavy for businesses"; and

WHEREAS, the City of Berkeley has been a strong advocate for the rights to access to public accommodations of disabled individuals, and

WHEREAS, H.R. 620 would weaken the Americans with Disabilities Act (ADA) and remove incentives for businesses to comply with the law; and

THEREFORE, BE IT RESOLVED, that the City Council of the City of Berkeley hereby opposes H.R. 620 ADA EDUCATION AND REFORM ACT OF 2017.

