

Legislation Text

File #: ROGC 21-862, **Version:** 1

ADA Compliance. (Jones, Jimenez, Foley)

Direct City Manager to ensure all businesses, specifically small, minority-owned businesses, are educated about the [American with Disabilities Act](#) (ADA) Compliance requirements at the state and federal level, and have access to resources and tools, to ensure the City of San José is barrier free, inclusive, and accessible to all residents and visitors through the following actions.

1. Provide and improve multi-language education through:

1) A new City webpage that includes information about ADA compliance tools, resources, and access to local and state services to help business owners and nonresident landowners comply with ADA requirements.

2) Mailers/flyers to be distributed to San José certified businesses in the zip codes listed in Attachment A, providing them education about the obligation to comply with state and federal ADA laws and access to resources and tools.

3) City-sponsored webinar in partnership with ADA compliance subject expert(s) providing overview and education on state and federal laws, local and state resources for assistance in ensuring places of business are accessible, and protection against accessibility lawsuits.

2. Include distribution of work between Office of Economic Development and the Planning Division's Business Ally Program/Coaching Center to utilize existing resources and workplans such as:

a. OED's current efforts towards redesign of the Business Owner Space website and creation of a Virtual Business Center as a "one-stop-shop" in alignment with the [Mayor's Budget Message](#) in June 2021.

b. Planning Division's "Disability Access and Education Revolving Fund;" this is a state mandated program that has created a local revenue stream for training and certification of municipal CASp inspectors, and education, outreach, and grants to facilitate ADA compliance for small businesses.

3. Increase promotion of the City's [Disabled Access Improvement Grant Program](#), which was launched in 2020 to facilitate ADA compliance for small businesses; partner with third party organizations specialized in providing technical assistance and support for small businesses.

4. Report on appropriation of funds collected through the state mandated Disability Access Education Revolving Fund; expand use of funds to include the "Accessibility & Legal Guidance Fund Program" to provide financial assistance grants and guidance to qualifying small businesses with:

a. Correcting construction-related physical access violations per a completed [Certified Access Specialist](#) (CASp) inspection report, specifically to cover the top three violations reported statewide:

1) Noncompliant existing parking spaces, e.g. excessive slopes/cross-slopes, improper dimensions, striping, etc.;

2) Access heights within public facility, e.g. heights of surfaces such as counters, bars, or tables are not compliant;

3) Noncompliant or nonexistent Parking for Van-accessible and/or loading zones;

b. Navigating through remediation of accessibility violations and litigation.

5. Ensure the City's "Al Fresco Forever" initiative includes education about ADA compliance requirements and guidelines on access solutions for businesses to implement in order to adequately serve customers with disabilities and prevent violations that may place businesses at risk for lawsuits.

6. When considering establishment of the new Office of Disability Affairs as part of the budget process, include a forum or point of contact for citizens to submit communication regarding access

and barriers at public spaces and places of businesses within the City so that these issues may be potentially addressed proactively and outside of the litigation process.

7. Direct Office of Intergovernmental Relations to:

a. Work with City's State lobbyist and/or Assembly Members Alex Lee, Evan Low, Ash Kalra, and Senator Dave Cortese to:

i. Advocate for maintaining the state mandated "Disability Access and Education Revolving Fund" fee at \$4 and retainment of the fees collected at 90% for local municipalities before it reverts to a \$1 fee and 70% retainment in 2023. This will allow the City to continue with providing funding for training of CASp inspectors, the City's [Disabled Access Improvement Grant Program](#), and other potential programs as proposed at the local level that may serve as tools for small businesses to utilize and ensure accessibility for individuals with disabilities; and

ii. Request allocation in the state budget to establish grants for small businesses in order to upgrade their premises to be administered through the California Commission on Disability Access (CCDA); in addition to working with members representing the Bay Area, consider also working with members representing the Central Valley, which historically has also been hard hit by these lawsuits.

b. Advocate for federal legislative reforms that make it more difficult to file predatory ADA lawsuits in federal court, especially considering the 45% increase in the number of ADA lawsuits against small businesses in California through the federal courts since 2017.

8. Collaborate with the State's California Commission on Disability Access (CCDA) and Disability Rights California to explore best practices in other cities throughout the State, increase education, and promote available state resources and tools to ensure businesses are accessible by individuals with disabilities.

9. Report Back to Council with an Information Memorandum on Recommendations 1 - 6, and 8; report back to Council on Recommendation 7 at the next IGR Quarterly Report.