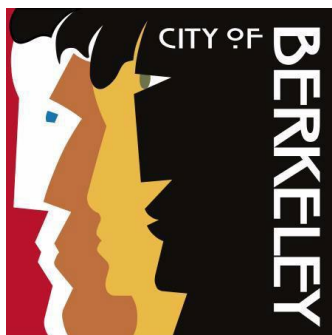


# City of Berkeley



## SELF-EVALUATION AND TRANSITION PLAN

Americans with Disabilities Act  
Section 504 of the Rehabilitation Act



Prepared by  
Disability Access Consultants, LLC



800.743.7067

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The City of Berkeley ADA/504 Self-evaluation and Transition Plan was prepared by Disability Access Consultants, LLC with the collaboration and assistance of the City of Berkeley staff and input by other interested individuals and community members.

Dominika Bednarska, Disability Services Specialist, provided oversight for the overall project and was assisted by multiple City staff members for coordination of individual tasks.

At the time of the evaluation, Dominika Bednarska served as the City's ADA Compliance Coordinator through the Disability Compliance Program.

Following a staff change, Thomas Gregory currently holds the position of ADA Program Coordinator. The City's ADA/504 Coordinator is Liam Garland.

A copy of the ADA/504 self-evaluation and transition plan is available from the City's ADA Compliance Coordinator. Accessible alternate formats are available.

Disability Access Consultants, LLC (DAC)

800.743.7067

## ADA/504 Self-evaluation and Transition Plan Purpose and Summary

As the City of Berkeley has made an ongoing commitment to provide programs, services and activities in a nondiscriminatory manner for individuals with disabilities, the City of Berkeley (City) conducted an updated Americans with Disabilities Act (ADA) and Section 504 Self-evaluation and Transition Plan of programs, services, activities, parks, facilities and public rights-of-way. The City of Berkeley Americans with Disabilities Act (ADA) Title II and Section 504 (504) self-evaluation documents the results of the City's review of access to programs, services, activities, events, facilities, parks and public rights-of-way by persons with disabilities to determine if any discriminatory or potentially discriminatory practices, policies or procedures exist that may deny access for individuals with disabilities.

The 2019-2022 updated ADA/504 self-evaluation and transition plan provides a current benchmark of accessibility activities by the City and provides an updated framework for remediation and implementation and updates prior accessibility ADA self-evaluations and transition plans. The goal of the City is that potential physical and programmatic barriers for accessibility for persons with disabilities are identified and removed. As evidenced by this study and update, the City is committed to complying with the tenets of Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 (504), and other federal, state statutes and regulations to provide accessibility for persons with disabilities. The update further serves to demonstrate the ongoing compliance efforts by the City in addition to findings and recommendations and a roadmap to assist the City with ongoing compliance.

Current City accessibility initiatives, related documents such as master plans, findings from regulatory audits, federal and state funding and Community Development Block Grant (CDBG) were reviewed and as appropriate were incorporated into the findings and recommendations of the City of Berkeley ADA/504 Self-evaluation and Transition Plan. Findings and recommendations are based on the ADA/504 review of the City of Berkeley and includes a review of potential programmatic and physical barriers that may deny access for persons with disabilities.

The City of Berkeley ADA/504 Self-evaluation and Transition Plan details accessibility findings and recommendations for the City. The ADA/504 Self-evaluation and Transition Plan includes a review of potential "programmatic" and "physical" barriers that may deny access for persons with disabilities. Noncompliant findings regarding "physical" barriers that may deny access for persons with disabilities are contained in the online DACTrak Accessibility Management software used by the City. DACTrak contains detailed findings of potential physical barriers that may deny access and includes actual findings, recommendations, photographs, references to accessibility code requirements and is a tool for the City to manage and update the City's transition plan for the removal of physical barriers. Access to information contained in the DACTrak program is available from the City's ADA Compliance Coordinator. Programmatic and potential policy barriers are identified in the ADA/504 Self-evaluation and Transition Plan.

As evidenced in the current updated ADA/504 self-evaluation and transition plan, the City understands that the ADA/504 self-evaluation and transition plan is not a static document but requires ongoing implementation and periodic updates. The ADA/504 self-evaluation and transition plan provides a current benchmark for accessibility efforts by the City and provides an updated framework for implementation.

The current study also incorporates recent code changes, updates in accessibility standards and regulations in addition to accessibility trends. The ADA self-evaluation and transition plan activities work together to address the requirements of the ADA. Additional accessibility requirements that were added with the 2010 ADA for areas such as recreational sites, golf facilities, play areas,

recreational boating sites, fishing piers, swimming pools, wading pools, and judicial facilities. Accessibility requirements were also changed for items such as reach range, water closets, assembly areas and other areas. The City's current plan updates standards and provides safe harbor for those areas and items that were compliant under prior accessibility codes. As such, it was prudent for the City to update their ADA/504 Self-evaluation and Transition Plan. In addition, the current ADA/504 Self-evaluation and Transition Plan incorporates recent updates in the California Building Code, the Manual on Uniform Traffic Control Devices and the Public Right-of-Way Accessibility Guidelines (PROWAG). PROWAG was adopted by the California Department of Transportation (Caltrans). As remodeling and remediation of physical barriers would in most cases require scoping and compliance with newer accessibility regulations and requirements such as the 2010 ADA Standards and the 2019 California Building Code, the ADA plan needed to be updated to maintain compliance.

As public input is important to develop and prioritize the plan, the City conducted public outreach as described in the public outreach portion of this document. In addition to being required, it is recognized that input from stakeholders is a valuable component of an updated, usable, and realistic plan. In addition to input from the public, input was solicited from City staff. As additional input from stakeholders is received, the ADA Compliance Coordinator or designated person is responsible to evaluate the input and incorporate it into the ADA plan as appropriate.

The City of Berkeley has demonstrated a commitment from the highest level of leadership with coordination of compliance activities and involvement of persons with disabilities and methodologies for compliance procedures. As evidenced in the current updated ADA/504 report, the City of Berkeley understands that the ADA/504 compliance plan is not a static document but requires ongoing implementation and periodic updates. The ADA/504 self-evaluation provides a current benchmark for accessibility efforts by the City and provides an updated framework for implementation. The current study also incorporates recent code changes, updates in accessibility standards and regulations in addition to accessibility trends. The ADA/504 self-evaluation and transition plan activities work together to address the requirements of the ADA.

## **Methodology for the Development of the Self-evaluation and Transition Plan**

Disability Access Consultants, LLC (DAC) was contracted to conduct a comprehensive accessibility review of all City programs, services, activities, policies, buildings, parks, bus stops and public rights-of-way in order to develop an updated City of Berkeley ADA/504 Self-evaluation and Transition Plan.

Multiple City staff members provided assistance with project coordination with general oversight performed by Dominika Bednarska, Disability Services Specialist and ADA Compliance Coordinator.

Methodology included, but was not limited to:

- The kick-off meeting was held on August 5, 2019 with DAC and City staff
- A project start date of August 13, 2019 was confirmed to begin the onsite surveys
- A website accessibility review was conducted for compliance with WCAG 2.0 Level AA
- Multiple methods and opportunities were provided for public input
- A review was conducted of the previous accessibility activities and efforts by the City
- A review was conducted of accessibility related City policies and other documents
- A review was conducted regarding the accessibility of City programs, services, activities and events
- Accessibility surveys were performed by DAC of City buildings, facilities, parks, bus stops, public rights-of-way and other areas

- Training was provided on March 30, 2020 for City staff regarding the use of the DACTrak accessibility management and software program to manage, update and implement the City's transition plan
- Possible implementation strategies have been discussed for barrier removal
- Consultation and plan reviews have been provided by DAC for current facilities and sites under development

The City is using the DACTrak accessibility management software to manage and implement the transition plan. Using DACTrak, the City can generate compliance assessment reports that provide at a minimum the following information:

- A description of the noncompliant physical element
- Identification of the reason(s) a physical element is considered noncompliant
- Applicable federal and state accessibility code references that apply to the element
- Digital photographs of the noncompliant physical element
- Recommended method to bring the item into compliance
- A construction cost estimate when applicable

The City of Berkeley ADA/504 Self-evaluation and Transition Plan documents findings and recommendations by categories or areas reviewed for compliance and not necessarily by individual departments. Compliance areas are reported with findings followed by recommendations. Some findings and recommendations are Citywide and others to specific departments. If findings or recommendations are specific for a department, then they are reported as such. For example, if accommodation statements or procedures for requesting a reasonable accommodation by a person with a disability is not available, then access to programs, services and activities may not be available. Certain departments may have developed specific reasonable accommodation statements related to their department.

In addition to programmatic and policy barriers, physical barriers may exist and are reported in the transition plan using DACTrak. Noncompliant findings and recommendations for the removal of physical barriers that may deny access for persons with disabilities are contained in the secure, online DACTrak accessibility management software used by the City. DACTrak contains photographs of physical barriers, GIS information, findings, recommendations, estimated costs and other information. Custom reports and transition plan information can be generated from DACTrak to monitor and track the implementation of the plan.

The City of Berkeley ADA/504 Self-evaluation and Transition Plan serves as a roadmap to assist the City with ongoing compliance. The results from the ADA/504 self-evaluation demonstrate not only the commitment by the City to provide access to City programs, services and activities, but documentation of the overall compliance by the City of Berkeley and outlines a framework for enhancing compliance. Access to information contained in the DACTrak program is available from the City of Berkeley's ADA Compliance Coordinator.

## **Requirements to Conduct an ADA Self-evaluation and Transition Plan**

Part 35.102 of Title II of the ADA describes the application of the ADA and Section 504 of the Rehabilitation Act which requires state and local governments, such as town, city and county governments (referred to as public entities in this document) to ensure that their facilities, public rights-of-ways, policies, procedures and practices are accessible and do not discriminate against persons with disabilities. The ADA and Section 504 require the City to provide access to City programs, services and activities. Buildings and public rights-of-way are assessed for compliance

with accessibility standards and regulations as a noncompliant building may, for example, deny access to a program, service, or activity of the City. The transition plan is to identify the physical barrier in detail, the proposed method to remove the barrier, the designated responsible person to oversee the plan and the projected (estimated) dates of barrier removal.

The ADA has five (5) separate titles:

- Title I: Employment
- Title II: Public Services: State and Local Government
- Title III: Public Accommodations and Services Operated by Private Entities
- Title IV: Telecommunications
- Title V: Miscellaneous Provisions

The focus of the City of Berkeley ADA/504 Self-evaluation and Transition Plan is Title II (owned by the public and open to the public) of the ADA to provide access to public areas of facilities and access to all City programs, services and activities. Title III (privately owned and open to the public) requirements are reviewed in selected cases due to the City's use of outside vendors, private groups and agencies during the provision of City programs, services, and activities. Thus, requirements of Title III do overlap and integrate into the current study in cases where the City contracts with outside vendors. Title I of the ADA provides requirements for employees and is not the focus of this study. Individual employee access accommodations are handled on a case-by-case basis.

Section 504 requires public entities that receive federal or state funding to ensure that they do not have any discriminatory practices. As such the requirements of Section 504 are very similar to those of the ADA that was passed by congress in 1990. Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112) prohibits discrimination based on disability in federally assisted programs and the flow through sub-recipients, including contractors. The Americans with Disabilities Act passed in 1990 (Public Law 101-336) is a broader civil rights statute that prohibits discrimination against people with disabilities. In addition to the Department of Justice (DOJ), the Federal Highway Administration's (FHWA) and the United States Department of Transportation (USDOT) have requirements for accessibility in accordance with the Americans with Disabilities Act (ADA) and Section 504. Pedestrians with disabilities should have an equal opportunity to use the pedestrian access routes in an accessible and safe manner.

As part of FHWA's regulatory responsibility under Title II of the ADA and Section 504 of the Rehabilitation Act of 1973 (504), the FHWA is required to ensure that recipients of federal aid and state and local entities that are responsible for roadways and pedestrian facilities do not discriminate on the basis of disability in any highway transportation program, activity, service or benefit they provide to the general public; and to ensure that persons with disabilities have equitable opportunities to use the public rights-of-way system. Furthermore, laws and regulations require accessible planning, design, and construction to integrate persons with disabilities and that the public entity does not discriminate.

As the California Department of Transportation (Caltrans) is a recipient of federal funds and cities, counties and other public entities are subrecipients of the flow through funding, public entities are required to demonstrate their compliance with the ADA and Section 504 of the Rehabilitation Act. A component of the DOT requests is the development of a comprehensive ADA/504 self-evaluation and transition plan. As such, completion of a comprehensive ADA/504 self-evaluation and transition plan is an accepted practice to take the place of an updated Section 504 plan. As such, the City's ADA/504 Self-evaluation and Transition Plan meets the requirements of not only the ADA plan, but the Section 504 plan as well. By completing this comprehensive plan, the City will not only meet its

ADA and Section 504 compliance requirements but will have a sustainable plan that can be updated, monitored, managed and will document progress for ongoing accessibility compliance.

Several regulatory agencies require the development and implementation of an Americans with Disabilities (ADA) plan and a Section 504 Rehabilitation Act plan. The United States Department of Housing and Urban Development requires an ADA/504 self-evaluation and transition plan that includes the oversight of the use of Community Development Block Grant (CDBG) program funds in a nondiscriminatory manner. The CDBG program provides annual grants on a formula basis to states, cities, and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. The CDBG program requires public agencies to develop, maintain and implement an Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act ADA/504 self-evaluation and transition plan to ensure that programs, services, activities and facilities are accessible for persons with disabilities.

The Department of Justice (DOJ) has rulemaking authority and enforcement responsibility for Title II, while USDOT is legally obligated to implement compliance procedures relating to transportation, including those for highways, streets, and traffic management. The Federal Highway Administration (FHWA) Office of Civil Rights oversees the DOT requirements in these areas. To ensure compliance, the California Department of Transportation conducts reviews to ensure that:

- FHWA recipients and subrecipients are informed of their responsibilities to provide accessibility in their programs, activities, facilities and public rights-of-way;
- Recipients and subrecipients comply with the ADA and Section 504;
- Recipients and subrecipients are applying appropriate accessibility standards to all public rights-of-way and transportation facilities;
- All complaints filed under Section 504, or the ADA are processed in accordance with established complaint procedures.

California law provides similar protections to Title II and Section 504. Government Code Section 11135 prohibits discrimination by state and local governments. The Unruh Civil Rights Act (Civil Code Section 51) and the Disabled Persons Act (Civil Code Sections 54-55.32) prohibit disability-based discrimination by business establishments also applies to government entities in some circumstances. State law or other federal laws such as Section 504 may provide a higher level of protection than Title II of the ADA. The higher standard should be applied, whether state or federal.

### **Differences Between a Self-evaluation and a Transition Plan**

The self-evaluation component of the ADA/504 plan identifies any barriers or potential barriers for persons with disabilities and includes a review of policies, programs, activities, services, and facilities. Barriers identified may include policies or procedures that could inadvertently discriminate against persons with disabilities. An example of a self-evaluation component that was reviewed is the City's website. The accessibility review of the website was conducted to determine if changes are needed to make the website more accessible. Many persons with disabilities use the information on the website to view activities, enroll in courses or to provide input. Another example may be the use of inappropriate terminology such as the word "handicapped" instead of the term person with a disability. A key and required component of the self-evaluation is the opportunity for input by the public, organizations that represent persons with disabilities, staff, and other interested persons. The City conducted activities to solicit comments and input by the public using a variety of methodologies to incorporate comments into the overall content and prioritization of the plan. Public outreach activities are discussed in the public outreach portion of this report.



The transition plan on the other hand, assigns estimated (projected) dates for the removal of physical barriers identified in the plan as required by the ADA for public entities with more than fifty (50) employees and for fifteen (15) or more employees in accordance with Section 504 of the Rehabilitation Act. The City, using DAC's recommended priority worksheet as one method for prioritization, is assigning dates for barrier removal in the City's transition plan and is developing an implementation plan over time that will incorporate priorities identified by the public and staff, concerns or complaints, prevalence of use by persons with disabilities, current remodeling and construction projects, funding sources, resources and other variables related to the removal of physical barriers.

The term "transition plan" comes from the terminology in the 1990 Americans with Disabilities Act (ADA) that describes how public entities would be "transitioning" into compliance during the timelines of 1992 to 1995. The term "barrier removal" plan is used in addition to the term transition plan, as public entities are no longer transitioning into compliance during the three years set aside in the law. The transition/barrier removal plan identifies the noncompliant barrier that may deny access to goods and services, the proposed method to remove the barrier, the identity of the responsible person to oversee the implementation of the plan and the projected schedule for barrier removal of "structural" barriers. The transition plan provides a schedule for the removal of barriers with estimated projected timelines. The self-evaluation, on the other hand focuses on the identification of physical and programmatic barriers that may deny access to programs services and activities. The two plans work congruently to remove the structural and programmatic barriers.

To effectuate Title II of the ADA, Department of Justice regulation 28 CFR 35.150(d) Transition Plan, requires public entities to review and identify physical barriers and steps needed to enable accessible programs when viewed in their entirety. Public entities must ensure that people with disabilities are not excluded from programs, activities, and services because of inaccessible facilities. Each facility is not necessarily required to be accessible. A public entity's services, programs, or activities, when "viewed in their entirety," must be accessible. This standard is known as "program accessibility" and is a key requirement under Title II of the ADA.

A comprehensive transition plan should contain the following:

1. A list of the physical barriers in a public entity's facilities that limit the accessibility of its programs, activities, or services to persons with disabilities
2. A detailed outline of the methods to be utilized to remove these barriers and make the facilities accessible
3. The schedule for taking the necessary steps to achieve compliance with Title II of the ADA and the plan should identify the interim steps that will be taken during each year of the transition period
4. The name of the designated person responsible for the plan's implementation (usually referred to as the ADA Coordinator or ADA/504 Coordinator)

Structural changes are not always required where there are other feasible solutions such as moving a service from a nonaccessible location to an accessible location. However, structural changes leading to increased integration should be considered where feasible. Where structural modifications are required to achieve program accessibility, a town government with 50 or more employees must complete a transition plan that provides for the removal of these barriers. Any structural modifications must be completed as expeditiously as possible and are required to be in the City's transition plan.

## **Duties and Fundamental Alteration**

ADA Part 35.164 does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. If the public entity believes that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.

## **Classification of the City of Berkeley**

The City of Berkeley is classified as a "public entity" pursuant to Title II of the Americans with Disabilities Act which applies to state and local governments. A public entity covered by Title II is defined as a state or local government. As defined, the term "public entity" does not include the federal government. Title II, therefore, does not apply to the federal government, which is covered by Sections 501 and 504 of the Rehabilitation Act of 1973. Title II is intended to apply to all programs, activities and services provided or operated by state and local governments. It also applies to contractors and vendors of the public entity. As Section 504 of the Rehabilitation Act applies to programs or activities receiving federal financial assistance, the City understands that compliance with Section 504 is required.

Title II of the ADA covers programs, activities and services of public entities. Title II is divided into two subtitles. This study focuses on subtitle A of Title II, which is implemented by the Department of Justice's Title II regulation. Subtitle B, covering public transportation, is implemented by the Department of Transportation's regulation and is not addressed in this study. The City did, however, perform surveys and incorporate findings from City owned and maintained public rights-of-way. In accordance with the ADA and Section 504, public rights-of-way are considered programs, services and activities of the public entity.

Subtitle A, the focus of the City of Berkeley Self-evaluation and Transition Plan, is intended to protect qualified persons with disabilities from discrimination on the basis of disability in the services, programs, or activities of all state and local governments. It additionally extends the prohibition of discrimination based on disability established by Section 504 of the Rehabilitation Act of 1973, as amended, to all activities of state and local governments, including those that do not receive federal financial assistance. By law, the Department of Justice's Title II regulation adopts the general prohibitions of discrimination established under Section 504 and incorporates specific prohibitions of discrimination from the ADA.

## **General Information About the City of Berkeley**

The following information was found in the City of Berkeley General Plan located on the City's website:

Berkeley is a unique place. It has a population that is ethnically, culturally, and economically diverse and its citizens value that diversity. Its citizens care deeply about their community and many participate actively in its civic affairs. Berkeley is fortunate to be located in the center of the Bay Area with its desirable climate and physical beauty. While much more than just a university town, Berkeley benefits from the University of California's cultural and educational facilities and its positive impact on

the local economy. As one of the older cities in the East Bay, Berkeley has a number of lively pedestrian-oriented commercial areas that developed along former streetcar routes and near the University. It has many pleasant, livable residential neighborhoods with many attractive older homes. It has largely avoided the newer car-oriented suburban sprawl and strip mall style of commercial development found in other parts of the Bay Area.

According to demographic information found on the City's website, the City was founded in 1860 and has a population of approximately 123,065.

## **City Government**

Per the City of Berkeley Proposed Annual Budget for Fiscal Year 2022:

The people of Berkeley are the highest level in the City's organization chart. They directly elect the Mayor and the eight other members of the City Council, the members of the Rent Board, the members of the School Board, and the City Auditor.

The nine members of the City Council (eight elected by district and the mayor, elected at-large) appoint the members the Board of Library Trustees and the members of the City's Boards and Commissions. Boards and Commissions serve as advisory bodies to the Council, although some have quasi-judicial functions. Berkeley Housing Authority members are appointed by the Mayor and confirmed by the Council.

The Mayor and Council select and confirm the City Manager, who acts as a Chief Executive Officer for the rest of the City government. The City Manager is responsible for the administration of City services and programs, enforcement of the City's Municipal Code and ordinances, and preparation of the annual budget. The Department directors are selected by the City Manager and confirmed by the City Council.

## **City Departments and Divisions**

- City Attorney
- City Clerk Department
- City Manager's Office
- Finance Department
- Fire Department
- Health, Housing, and Community Services
- Human Resources
- Information Technology
- Parks, Recreation & Waterfront
- Planning and Development
- Police Department
- Public Works

## **Prior ADA Self-evaluation and Transition Plan**

The 2019-2022 City of Berkeley ADA/504 Self-evaluation and Transition Plan update was conducted by DAC and updates accessibility surveys and studies that were conducted previously, most recently from 2001 to 2004.

## Designated ADA and 504 Coordinator

The regulations implementing the ADA require any public entity with fifty (50) or more employees to designate at least one employee to coordinate ADA compliance (28 CFR § 35.107(a)). In addition, federal regulations require public entities to make available to interested persons the name, office address and telephone number of the ADA Coordinator. Furthermore, in providing for notice, a public entity must comply with the requirements for effective communication in Section 35.160.

Although the law does not refer to this person as an "ADA Coordinator," this term is commonly used in state and local governments across the country and will be used in this chapter. Part 35.107 states that "a responsible person should be designated" to oversee and implement the plan. The ADA Coordinator is responsible for coordinating the efforts of the government entity to comply with Title II and the investigation of complaints. A government entity may elect to have more than one ADA Coordinator; however, this may be confusing for the public. Another option is to designate "ADA Liaisons" for departments or key areas of government in addition to the City's ADA Coordinator.

The requirement for designation of a particular employee and dissemination of information about how to locate that employee helps to ensure that members of the public, organizations and staff can easily access the ADA Coordinator who is familiar with the requirements of the ADA.

The information below in the indented paragraph is extracted from the Department of Justice (DOJ) publication entitled "ADA Best Practices Tool Kit for State and Local Governments" regarding the requirements to designate a responsible person to oversee the ADA plan and initiatives, known as the ADA Coordinator.

"If a public entity has 50 or more employees, it is required to designate at least one responsible employee to coordinate ADA compliance in accordance with 28 C.F.R. part 35.107. A government entity may elect to have more than one ADA Coordinator. Although the law does not refer to this person as an "ADA Coordinator," this term is commonly used in state and local governments across the country and will be used in this chapter. The ADA Coordinator is responsible for coordinating the efforts of the government entity to comply with Title II and investigating any complaints that the entity has violated Title II. The name, office address, and telephone number of the ADA Coordinator must be provided to interested persons."

According to the DOJ Publication, an effective ADA Coordinator has, but is not limited to, the following skills:

- Familiarity with the state or local government's structure, activities, services
- Knowledge of the ADA and other laws addressing the rights of people with disabilities, such as Section 504 of the Rehabilitation Act 29 U.S.C. § 794
- Experience and understanding of a broad range of disabilities and acceptable terminology regarding disabilities
- Knowledge of effective communication for persons with disabilities, accessible alternative formats, technologies that enable people with disabilities to communicate, participate, and perform tasks
- Ability to work cooperatively with the local government and people with disabilities
- Familiarity with any local disability advocacy groups or other disability groups
- Skills and training in negotiation and mediation
- Organizational and analytical skills

Since the responsibilities are very similar, public entities may choose to designate a single staff member as both the ADA Coordinator and the 504 Coordinator and refer to the position as the ADA/504 Coordinator. Public entities may also choose to appoint the positions of ADA Coordinator and 504 Coordinator to separate staff members. Recommendations to enhance compliance with the Americans with Disabilities Act throughout this document will refer to the “ADA Coordinator”, although an entity may have an ADA/504 Coordinator designated. The 504 Coordinator is required to sign the project assurances for projects that receive federal and state funding, such as Housing and Urban Development (HUD) grants.

## **FINDINGS**

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- ✓ The identity of the City’s ADA Compliance Coordinator is posted in the City’s Grievance Procedure document found on the Disability Compliance Program page of the City’s website.

Dominika Bednarska\*  
Disability Services Specialist  
Public Works Department  
1947 Center Street, 4<sup>th</sup> Floor  
Berkeley, CA 94704  
Email: [dbednarska@cityofberkeley.info](mailto:dbednarska@cityofberkeley.info)  
Phone: 1-510-981-6418  
TTY: 1-510-981-6347

- ✓ The Disability Compliance Program webpage also provides email, telephone, TTY and physical mailing contact information for the ADA Compliance Coordinator.
- ✓ The City of Berkeley Police Department Policy Manual includes the following policy for designating a department ADA Coordinator:

### **332.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR**

The Chief of Police shall delegate certain responsibilities to the Audit and Inspection Sergeant, who shall act as the ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be directly responsible to the Professional Standards Division Captain or his/her designee.

\*Note – Following a staff change, Thomas Gregory currently holds the position of ADA Program Coordinator. The City is in the process of updating notices and postings with Thomas Gregory’s information.

## **RECOMMENDATIONS**

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Additional recommendations listed will maintain and enhance the requirements and do not reflect corrective action.

- The identity of the ADA Coordinator should continue to be posted, maintained and updated to correctly identify the current identity of the ADA Coordinator if the City staff member holding that position changes.
- Information regarding the identity of the City’s ADA Coordinator should be provided to staff, posted at all City locations, incorporated into new employee orientation and volunteer packets, and placed in frequently used publications, on the website and in staff and public directories.

- It is recommended that the City publish the name, address, email address and phone number of the City's ADA Coordinator using multiple methods in appropriate public notices, brochures, pamphlets, press releases, the website and other documents frequently distributed to the general public. Publications should also include a TDD/TYY and/or the California relay phone number.
- Publications should be updated if the identity of the ADA Coordinator changes or if more than one ADA Coordinator is designated.
- If additional City staff are assigned ADA duties specific to each department, the City could consider designating "ADA Liaisons" for certain areas in addition to the overall ADA Coordinator. This method will avoid confusion by the public regarding who to contact and may increase the communication between departments.
- City staff should receive information or training regarding the requirements and role of the ADA Coordinator and the 504 Coordinator.

## Grievance and Complaint Procedures

A public entity that employs fifty (50) or more people must adopt and publish grievance procedures and forms which provide for the prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA (28 CFR § 35.107(b)). Seasonal, part-time and contracted employees are included in the total count. If the City is a recipient of federal or state funds, Grievance procedures are required if the City employs 15 or more people. As such and in accordance with the ADA and Section 504, the City is required to have grievance procedures available to the public. The term "grievance procedure" is used by the Department of Justice. City governments may use the term "complaint" or "uniform complaint procedures" which may be identical or very similar.

A public entity that employs 50 or more people shall designate at least one employee to coordinate its efforts to comply with and fulfill its responsibilities under Title II of the ADA, including the investigation of complaints. This person is frequently named the ADA Coordinator. A public entity shall make available the name, office address, and telephone number of any designated employee. In addition, the public entity must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II of the ADA.

## **FINDINGS**

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- ✓ Grievance procedures were found to be compliant and can be found in Appendix B. Although not required to be adopted, the City of Berkeley established an ADA Grievance Procedure Administrative Regulation Number 1.13 on October 1, 2001. The adoption of the grievance procedure and the designation of an ADA Compliance Coordinator formalizes the established procedures and communicates the requirements in accordance with Title II of the ADA.
- ✓ The City of Berkeley grievance procedure and forms are publicly available on the City's website. Hard copies of the policy and procedures are also made available. Procedures for submitting a grievance are included.
- ✓ Alternative means of filing complaints are provided, such as personal interviews or tape recordings of the complaint, are available for persons with disabilities upon request.
- ✓ The grievance procedure states that if a grievant is not satisfied with the decision of the Compliance ADA Coordinator, the Assistant City Administrator may be contacted for appeal.

- ✓ The Grievance Procedure in the City of Berkeley Police Department Policy Manual states:

### **332.16 COMPLAINTS**

Pursuant to the City of Berkeley's ADA Grievance procedure (AR 1.13, as it may be amended from time to time) the Department shall investigate any complaint against the Department or its employees which alleges denial of accommodation or non-compliance with disability related civil rights laws with respect to the Department's services and programs. AR 1.13 should be referred to for more details. Generally, however, any individual who disputes a disability-related action or omission of the Department or of an employee of the Department may discuss his/her complaint with the ADA Coordinator. The ADA Coordinator may consult with the City's Disability Compliance Coordinator. The ADA Coordinator shall maintain on file (for a period of three years) any record of the dispute including any findings, recommendations and/or the outcome.

If the dispute is not resolved to the complainant's satisfaction, he or she may file a complaint with the City's Disability Compliance Coordinator. Pursuant to BMC 3.32.090, as it may be amended from time to time, such complaints may also be filed with the Police Review Commission.

## **RECOMMENDATIONS**

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- The City should continue to post a grievance procedure which should include contact information such as mailing address, phone number, TDD number and an email address for the ADA Coordinator.
- The City's grievance procedure should continue to include the contact information for an alternate City staff member who should be contacted for appeal if the grievant is not satisfied with the resolution provided by the ADA Coordinator.
- The City should continue to provide a grievance form to accompany the grievance procedure.
- The City should make efforts to inform staff and the public of the existence of the City's ADA Coordinator, grievance procedures, the steps for handling grievances and the City policies for remediation of grievances.
- Information regarding complaint procedures should be readily available to members of the public, as well as to employees and applicants. Procedures should outline the steps needed to resolve a complaint.
- The City should provide the grievance procedure and form in accessible alternate formats on the City's website.
- The City should implement tracking procedures to document grievances and their resolution specifically for ADA related grievances. Correspondence and documentation related to the resolution of grievances should be retained by the City of Berkeley for at least three years.
- A method to collect data and collect a profile of complaints and grievances should be developed. The status of the complaint and the time from complaint to resolution should be documented to assist with interventions and staff development to reduce or eliminate repeated complaints.

- Complaint procedures and forms should be available at all City buildings and in all departments in addition to the website.
- Training should be provided to staff regarding the requirement and purpose of the grievance procedure.
- The City might consider the centralization of complaint handling to assist with the tracking of complaint resolution. A centralized database and analysis of types and locations of complaints may also assist with developing profiles to assist with targeting quality control and training measures. Centralized record keeping of such information will help the City to regularly update its compliance efforts, and plan for additional compliance implementation for training and budget considerations.
- The ADA Coordinator or designated staff can develop updated reports based on a profile of concerns or complaints to determine the needs for proposed training materials, agenda items and proposed budget expenditures.
- Procedures should continue to be developed, implemented and institutionalized to provide consistency for complaint resolution and record keeping.

### ADA Notice of Rights Afforded to Persons with Disabilities

In accordance with Title II of the ADA, the ADA notice is required to be posted and disseminated and should include the rights afforded to persons with disabilities. Public entities, such as the City of Berkeley, are required to provide information to applicants, participants, beneficiaries, employees and other interested persons of the rights and protections afforded by Title II of the ADA (26 CFR §35.106). In providing for notice, the City must comply with the requirements for effective communication in Section 35.160. The notice of rights afforded to persons with disabilities includes a nondiscrimination statement and the method to request a reasonable accommodation.

The notice is required to include relevant information regarding Title II of the ADA and how it applies to the programs, services and activities of the public entity to provide access for persons with disabilities in a nondiscriminatory manner. The notice should include the contact information for the ADA Coordinator.

### **FINDINGS**

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- ✓ The City of Berkeley recently launched an updated website which includes a newly redesigned Disability Compliance Program page. The newly designed page does not include a publicly posted "ADA Notice of the Rights Afforded to Persons with Disabilities" also known as the "Notice Under the Americans with Disabilities Act". The previous page format included a statement of rights and the City's commitment to nondiscrimination in the services, programs and activities offered by the City.

People with disabilities are protected from discrimination under a variety of laws, including the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and portions of the California Civil Code. Public programs may not discriminate against people based upon a disability and must offer all services, programs, and activities in ways that allow equal participation. The City of Berkeley does not discriminate on the basis of sex, color, religion, national origin, age, or disability in the programs and activities



which it operates. This policy extends to employment by, admission to, and participation in, the programs, services, and activities of the City of Berkeley.

- ✓ The City's website includes information for a summer lunch program where all children eighteen years and younger can pick up a free "grab and go" lunch and snack at several locations throughout the City. The webpage advertising the program includes the following notice of nondiscrimination:

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department.

## **RECOMMENDATIONS**

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- The City should develop and post a notice of rights and protections afforded by Title II of the ADA.
- The notice should include the name, title, address and phone number of the ADA Coordinator. The notice should include a TDD/TTY number and/or California Relay number to ensure equally effective communication. Although not required, it is recommended that the notice include the email address for the ADA Coordinator.
- The notice should also be provided using multiple methodologies, such as in applicable newspaper advertisements, on applications, at program sites, in program handbooks, in regular mailings, on legal notices, in requests for proposals/qualifications, on facility use agreements and in contracts.
- Notices should be posted in conspicuous, high use locations on a regular basis in addition to the City's website.
- Information regarding the identity and contact information of the City's ADA Coordinator should be provided to staff, posted at all City locations, incorporated into new employee orientation and volunteer packets, and placed in frequently used publications, on the website and in staff and public directories.
- Information regarding the requirement to post the identity of the ADA Coordinator, notice of rights in accordance with the ADA/504 and related information should be sent to each department by the ADA Coordinator or other appropriate official. A standard notice should be given as an example. Each department could add specific information applicable to the provision of programs, services, and activities.
- Postings and notice requirements should be updated if the identity of the ADA Coordinator changes or if more than one ADA Coordinator is designated.
- Nondiscrimination statements should be posted on frequently used publications for the public.

- Policies, practices, and procedures for nondiscrimination should refer to members of the public, in addition to employees, and address nondiscrimination regarding access to all programs, services and activities for persons with disabilities and not be limited to employment. The City should consider adopting a general nondiscrimination policy for access to programs, services, activities, applicants and employees.
- Statements of nondiscrimination should be included on selected publications, brochures describing programs, services and activities offered by the City, new employee materials, recruitment materials, publications and frequently used forms and documents.
- Contracts and vendors that provide printing and publication services should be notified of required statements, required font and required contrast for accessible publications.
- The City should consider adding contacting the ADA Coordinator to the “How do I” section to the website to assist with finding items such as the identity of the ADA Coordinator, how to request a reasonable accommodation and other items such as providing accessibility input regarding a concern or compliment.
- Training should be provided to not only the ADA Coordinator, but to ADA departmental liaisons.
- City staff should receive information or training regarding the requirements and role of the ADA Coordinator and the 504 Coordinator.
- In addition to the designated ADA Coordinator, the City might consider the designation of “ADA liaisons” for City Departments that would be designated for the majority of the departments as the City grows in size. The designation of ADA liaisons may increase the communication between departments and the ADA Coordinator. The designation of one ADA Coordinator with ADA Liaisons will assist with the requirement to track complaints and their resolution (ADA and 504 requirement) and facilitate timely communication.
- The new employee orientation packet and volunteer information should include a statement of nondiscrimination by the City regarding the public’s access to programs, services, activities, recruitment and employment.

## Opportunities for Input

The regulations which implement the ADA require public entities to provide an opportunity to interested persons and organizations to participate in the self-evaluation process. For three years after completion of the self-evaluation, the public entity must keep records of any problems identified (28 CFR §35.105 (a)(b)).

## Findings

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The City provided multiple and comprehensive opportunities for the public and staff using multiple methodologies. As such, there are no additional recommendations for opportunities for input.

- ✓ The City provided a comprehensive process for input by the public, organizations and staff using multiple methodologies to reach a large group of diverse stakeholders.
- ✓ For the purpose of developing an updated ADA/504 self-evaluation and transition plan and to provide opportunities for input, public notices regarding the City of Berkeley’s ADA/504

Self-evaluation and Transition Plan were developed and disseminated for public and staff soliciting input into the development of the City's Plan.

- ✓ Multiple types of surveys were developed and disseminated to solicit input into the City of Berkeley ADA/504 Self-evaluation and Transition Plan. Surveys were developed to encourage input from the public, organizations and City staff.
- ✓ Surveys and postings were used to solicit input from the public, organizations, and City staff. Select responses are included throughout this report. The complete surveys and responses are available as supplementary records. Survey comments are the actual comments submitted and have not been redacted for spelling or grammar. The summary of the number of responses that the City received to each survey is as follows:
  - Survey for Staff: 100 online survey responses
  - Survey for Public Input: 441 online survey responses
  - Survey for Area Organization Input: 1 online survey response
- ✓ The City offered two public input windows requesting feedback and comments from the public. The initial window took place from March 9, 2021 to April 10, 2021. A second window of opportunity was advertised from December 20, 2021 to February 18, 2022.
  - Surveys were available for the public, community members and organizations representing persons with disabilities.
  - Surveys were distributed internally via email to City staff.
  - Letters and emails were sent out to targeted area organizations that serve persons with disabilities.
  - Information and links to respond to a survey was placed on the City's website.
  - Information requesting input from the public and organizations regarding the City's ADA self-evaluation and transition plan update was posted on the website.
  - Public postings and notices requesting input were displayed on the City's website, in City facilities, on the City's social media accounts and included in the December 20, 2021 edition of the City's community newsletter that is emailed to approximately 55,000 subscribers.
  - The City held a public input meeting using the Zoom teleconferencing platform on February 9, 2022. A meeting announcement was placed on the City's website as well as included in the City's January 31, 2022 emailed community newsletter.
  - Hard copies of notices were placed in high traffic areas throughout the City.
- ✓ Survey questions and responses collected during the public input process have been compiled and will be maintained by the ADA Coordinator in a supplementary documentation file. Selected survey responses are included in this summary.

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## **Input from the Public**

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Selected survey responses that have a higher prevalence and relevance are reported in this summary. Most comments are verbatim. A few comments have been edited for clarity and spelling. It is important to note that some of the comments may not directly relate to programs, services and activities of the City, but may be located within the City of Berkeley. Respondents were asked what they considered to be high priorities for accessibility and to provide comments and suggestions. A summary of the responses from the public includes:

- Providing specific hearing and visual aids for events and public meetings
- Accessibility and safety of sidewalks and street crossings should be the highest priority. This includes making sure sidewalks are passable by people using wheelchairs, ensuring APS systems are ubiquitous and operational, providing safe curb ramps at every crosswalk, enforcement of parking laws (vehicles parked across or obstructing sidewalks), ensuring that people do not lie or camp on sidewalks, etc.
- All of the above
- A Jitney service, city wide, for the over 65 population and disabled
- Stop removing parking
- Hearing and visual aid, ease of accessibility, medium for those who are blind, materials delivered in large print or in another viable form. Websites that speak, just like there are translators for language can there be apps that deliver event information?
- Remove homeless encampments from sidewalks
- Housing.
- All of these listed items are important. By providing a greater amount of accommodations would be my first priority
- Traffic management. Drivers are not paying attention or even care about pedestrians. Able bodied pedestrians also are terrible.
- What isolates me in any crowd is my hearing loss. I have good hearing aids, but I can't hear speech when it is at all noisy. I have not had success with an iPhone device. I've stopped going to the theater and most musical gigs. I've had the best luck with music- jazz, blues, rock 'n roll- when the audience is respectful. I need closed captions to hear/see screens. Public meetings would be difficult. I can't hear much on the phone. When people phone for business or healthcare, I ask them to email me. No problem. Skype is another solution. Mobility issues have made things harder to get to or even line up for. I can stand, usually leaning on something, for 5 minutes, 10 if necessary. It hurts, but I hesitate to call attention to this unless I know there is a chair available. Stairs can be a deal breaker. There have been long lines at the pharmacy, and my dentist's office is up a long flight of stairs. Berkeley's musical venues are some of the kindest, most accessible places around. The Freight and Salvage, The Back Room, and the Jazz School are my favorite examples of doing things right. I can go there without more than a note to ask for help. A section of a large meeting hall can be set aside for those of us who can't manage without it. There is still the matter of hearing... Dealing with this stuff is difficult for everybody. I am very grateful for the help folks offer. Our pools here are staffed with trained and genuinely nice people. The city workers have gone out of their way to help me until I learned to use their computer programs. Even so, the Help Line staff are kind to this individual who can't hear much on the phone. I hope I've contributed something by writing all this.
- I think the most urgent need is for transportation options, which can help people with disabilities be more independent.
- 1 - continuing the zoom/teleconference public meetings after the pandemic is over. 2 - allowing email comment during meetings as was allowed initially during the pandemic,

disabled persons can't hang on for the entire evening until 11 pm or sometimes until almost midnight or later.

- Ensuring that there are no pot holes in the street would increase safety for both pedestrians with mobility problems maneuvering in traffic as well as increase safety for the general public. Berkeley should institute free bus services accessible to those with disabilities and the general public that would facilitate access to libraries and the several shopping districts at least within city limits to encourage the use of mass transit, spending locally, and promoting community spirit.
- More blue handicapped parking spaces
- More accommodations. Persons with disabilities may not qualify for handicapped parking. yet Berkeley insists on maintaining a fiction that persons with disabilities can walk or bike to Bart etc or that there are sufficient buses that can take disabled persons to places within the city without enormous obstacles or reasonable schedule or location.
- More safety measures put into busy intersections, for the hearing and visually impaired. Flashing lights to alert drivers are a good start. Bright orange flags that pedestrians carry across the street are another. We often are not aware of those who are hearing impaired.
- As stated earlier, we do not have access to our own streets and sidewalks, or even access to a basic feeling of safety in our own homes, while there are daily break-ins, robberies, etc. 2) Accessibility to our own building common areas: I feel trapped in my apartment. For those with health risks living in apartment buildings, there is very poor enforcement of wearing masks indoors, and I don't think the mask mandate should be lifted for places in multi-unit buildings like elevators and basement laundry rooms with no air circulation. I know there are cases in my building because I regularly receive CA notify bluetooth-based alerts on a device that hasn't left the building. You cannot rely on bottom-line-focused property management companies to address this issue. As mentioned earlier, I have called Public Health multiple times for assistance but cannot reach anyone or get a call back.
- Streets need to be paved. Old roads break wheelchairs
- providing more accommodations for persons with disabilities
- accessible housing near major transit hubs (i.e. north Berkeley bart)
- Providing specific hearing and visual aids
- Fix the streets so anyone in a wheelchair, scooter, bicycle can navigate the city....ticket, fine and jail speeders, noise makers, hot rodders, idiots...thank you
- As we are pushing for persons to " get out of their cars" priority should be on ADA as not having the ADA in place examples side walks will cause disparities for our elders and persons with disabilities to enjoy our city. Persons with disabilities and accessibility needs to be incorporated into planning and development not an after thought.
- transportation!
- new and old buildings should be accessible (elevators or lifts and, for stairs only buildings).
- Ban Cars. Fix sidewalks.
- homelessness
- Make sure doors to places can be opened easily and long enough for someone on a wheelchair to get through. I don't recall doors closing on me in Berkeley, but they do in Albany. Of course, ramps to everything. The tiniest step up can stop me from accessing someplace.
- I was a student at Cal and would often come back to Berkeley and the campus for dining, social activities, and hanging out. Every time return to Berkeley, new infrastructures and public rights of way improvements are hostile or lacking ADA access. For example, there are very few on-street blue zones, but parking has been reconfigured. Protected bike lanes have

made parking with an accessible vehicle impossible with these floating parking config and ones that are on the left side of the street -- I can't use these b/c the ramp would deploy into the travel lane. The right side of the street has removed parking for bike lane or bus lane.

- Traffic control. Pot hole repair.
- Providing access to stores, theaters, restaurants, and other businesses.
- I do not have the particular problems listed, so will leave it to those impacted to comment on this.
- Just have the guts to stand up to Berkeley School District. After 15 years.
- Sidewalks needed to be reviewed and fixed throughout the city in residential areas. I understand that the COB considers that the responsibility of owners, but many sidewalks are raised to ridiculous angles by trees planted on the curbside by the city.
- Maintain sidewalks and roads properly throughout the city.
- I think it's a more safety and accessibility issue that there are so many bikes and electric scooters on the sidewalks.
- Creating more sidewalks for them with special disability aids to be able to get to their destinations
- Anywhere there are steps there must be at least one railing
- Consequences for not stopping for pedestrians
- Remove barriers around disabled parking.
- Ensure pedestrian safety
- Improve accessibility
- secure street crossings by enforcing stops (I have been hit once, seriously, and threatened several times by automobiles that do not stop.)
- Ensure that sidewalk are not bry, raised and are safe to walk on.
- Safety on our sidewalks. For everyone's welfare the city needs to address the unsafe conditions of the mounting number of people with mental illness lining the sidewalks.
- In the business districts, the sidewalks are dirty and often congested with unhoused people. In the neighborhoods, the sidewalks are uneven, badly repaired, buckled and hard to navigate even for a non-disabled person.
- See previous answers
- More toilets, more pedestrian flashing lights for crossing busy streets, more toilets
- For visual and hearing impaired seating closer to the front of event to be reserved. For mobility issues or wheelchairs should be allowed to enter early so that they can have ample time to be seated
- Can't see how anyone could use the sidewalks of Berkeley in a wheelchair when they are so screwed up. First city I have lived in- of many- where asphalt is poured into big hills in the sidewalk where trees are growing through, rather than leveling the sidewalk.
- Announcements of public meetings on Berkeley-Disabled Google Group.
- In terms of safety, the city should revisit the pedestrian signals they are installing and make them consistent and effective. Specifically, the pedestrian and bicycle signal at Hillegass and Ashby is a hazard. I cross their often, and always see cars who do not understand the signal (which badly approximates a railroad crossing signal). Cars slow at the yellow; some stop; then they often continue on since pedestrians don't cross; and often cars are inadvertently going through the intersection when the light is double red. Then the double red flashing light confuses everyone. Not to be snarky, but who invented and okayed this hazard? And why doesn't the city and/or cal state hwys. revisit it and see it in action. Generally the city needs to stop inventing different solutions on different streets and intersections and be

consistent. The city repaved Adeline and put bike lanes closest to the sidewalks and parking one lane out. Now, if a car is parked in the current spots at a corner, pedestrians cannot see if traffic is coming unless they step out into a lane of traffic. And drivers cannot see pedestrians trying to cross. Look at Stuart and Adeline SW corner for a good example. The city should not be improving bicycle safety at the cost of pedestrian safety. Surely, a better solution is possible.

- make sure there is enough public parking for BART and local businesses, and apartment buildings who house the disabled.
- I think better lighting on the streets, more street crossing signals and curb cuts. But, I want to add that I don't think it is necessary to update curb cuts that already are functioning and exist. I see big crews pouring concrete to widen already existing cuts....this I see as a waste of money. New cuts, please.
- Expanded AC transit schedules and routes
- Transit
- better transportation .More Buses in hill area. Check out Emeryville's free shuttles and low cost pick ups.
- Increase PWD access to public sports and rec
- Not highest priority, but the city should enforce its parking rules in the hills. (1) Cars routinely park on sidewalks, blocking passage and forcing people (including elderly folks with canes and walkers) into the street -- I often fear for them, and (2) Cars routinely illegally park over the thresholds of their driveways, which, because many streets are narrow and have no sidewalks, eliminates safe space to stand in while cars pass.
- More support in transportation. More support in the schools.
- Provide a minimum level of local public transit, sidewalks, signalized crosswalks that give people enough time to cross without worrying about getting hit by a turning car.
- There should be one priority- access. Get more than one person to implement ADA requirements and train city workers on how to comply with the law. This survey is so bad.
- Greater funding for public facing areas (libraries, parks, other community orgs) to secure the accessibility changes they are probably already aware of, but don't have money to pursue. This includes disability rights for city employees.
- Get qualified inspectors and engineers that know how to review for Disabled Access.
- Making sure sidewalks are fixed. Providing COVID tests and vaccines to those who aren't able to leave their house for whatever reason.
- As someone with mobility challenges, the two things that I need the most are places to sit and accessible parking near facilities. I would like to see an increased number of public benches, particularly near transit stops, and I would like for things like restroom facilities at parks to be easy to reach (e.g., near a handicap parking space without having to go uphill).
- Improvements to accessing public facilities.
- improve streets and sidewalks
- It seems that there are numerous accommodations made for disabled individuals and we just need to continue on with making reasonable accommodations.
- Make sidewalk wheelchair accessible.
- access to information and ability for them to provide input
- Improvements to accessing the small minority of, ie inaccessible(-ish, at least) public facilities. Plus providing more specific hearing and visual aids/aidEs for events and public meetings.
- As someone with walking issues, upkeep of streets and sidewalks is a huge area where Berkeley is failing. I almost fell in a pothole at King and Fairview the other day. But also my guess is all of the above

- All of the above. In addition, more time on walk signals to allow elders and those with disabilities to cross busy commercial streets (Shattuck, Ashby, etc)
- Street and sidewalk improvements. Sorry to be a broken record, but the condition of the sidewalks and streets is a disgrace, and is dangerous. I may not be disabled, but I am 71 years old and it is dangerous to walk in this city where I live.
- Public facilities
- Highest priority is to promote safe streets throughout the city by discouraging parking and driving, giving more of the public right-of-way to amenities and features that minimize obstacles for diversely abled people (e.g. eliminate curbs, provide benches and accessible bathrooms), timing traffic lights and redesigning crossings to prioritize needs of slow-moving pedestrians, wheelchair users, and those on scooters and e-bikes. It is dangerous out there! The pandemic highlighted that we need safer streets to support mobility of the slow and chronically ill who have a limited range, especially along and across high-traffic arterials (e.g. Ashby, Shattuck, College, San Pablo, Sacramento) that separate residential neighborhoods from everyday services (e.g. groceries, libraries).
- All of the above
- Too often the sidewalks are too broken up to use. I see wheel chairs using the streets on my block because the sidewalks are so bad.
- fix the large pot holes on main streets: marin, monterey, hopkins and colusa avenues impossible to cross or drive over.
- Parking spots and smooth sidewalks; many folks can't walk far.
- Improvements to accessing public facilities
- Public areas. Lots of sidewalk lift around trees.
- Certainly being able to move about the city with as much ease/access as possible while ensuring safety. Crosswalks and sidewalk conditions, particularly in more residential areas removed from major corridors. All public events/meetings should continue to be made as accessible as possible for various disabilities to ensure equal access and participation.
- public facilities; making public transit more accessible and making streets more accessible and fixing potholes and areas where there are uneven streets. Scent free meetings.
- Make elevators workable in blogs over 2 stories
- Keep the infrastructure (streets, sidewalks, parks, libraries, government buildings, etc.) accessible and in good working order. Maintain what we have before adding new.
- It would be helpful if you consider a broader range of disabilities in addition to planning for wheelchair users and vision and hearing-impaired individuals
- Fix the elevators in the Channing/Telegraph Garage
- Provide new elevators at the Telegraph Channing Mall; elevators that will function reliably and not trap folks in them.
- For me, it's just more parking - it seems that half the city has a placard to park in blue spaces.
- Lower speed limit to 10 or 15 mph The city is full of speeders And also people walking and reading their phones while crossing the streets
- More accommodations across the board, more investment in places like the Ed Roberts Campus with more services, especially for people with Invisible (neurological or cognitive) disability or for people who have disability that comes and goes and who have not qualified for any assistance. It's VERY hard to find a job that will accommodate all my needs. But I also don't qualify for disability and the benefits are meager anyway. Also, in order to get benefits you're not allowed to have a savings account with more than a couple of thousand dollars in it. And many people have to get DIVORCED in order to qualify for disability! WE NEED SERVICES FOR PEOPLE WHO WANT TO KEEP FAMILIES TOGETHER AND WHO WANT



TO BE ALLOWED TO EARN MONEY AND SAVE MONEY WHILE ALSO GETTING HELP NOW AND THEN ESPECIALLY DURING A PANDEMIC. OUR PANDEMIC RELIEF RAN OUT! MY UNEMPLOYMENT RAN OUT. NOW THERE IS nothing left and I don't qualify for food stamps because my partner works and makes an ok salary. We are just on the cusp of not being able to afford our rent.

- Housing!! It breaks my heart to see so many people living on the streets, and the vast majority of them with one or more disabilities. Having a disability is directly correlated to having access to less financial resources, and in such a housing market as the Bay Area, not being able to afford housing is a very real thing for many people with disabilities. Living on the streets is brutal, living on the streets with a disability is life-threatening.
- Providing more accommodations for people w/disabilities
- Standardized protocol for accessibility of public events, meetings and communications regarding live captioning, ASL interpretation, accessible font and type size/color.
- a roundabout of about a mile a round for seniors to safely walk outside and exercise at several parkside or marina locations.
- Providing accommodations, finding a better platform for meetings other than Zoom.
- Mobility accessibility including disabled parking Some kind of ombudsman to talk to for help
- If a wheel chair blocked a lane of car traffic, it would be removed immediately. If a car blocks access to a handicap ramp (parking across the sidewalk), it can stay there for years with no consequences. We are paying for handicap ramps in SW Berkeley that cannot be accessed. The #80 bus needs support from City staff to re-start (document low-income status of this area for AC Transit to put us on the agenda). City's attempt to re-start bus had to do with climate change. AC Transit regs only recognize poverty, low-income status and handicapped. #80 is for access to food, medical, senior services, handicapped access to services, churches, mosques, synagogues, and schools. As well as Ashby BART.
- Right now many parts of the city are dangerous for pedestrians and people with assistive devices. I realize that a fully walking city doesn't work for many of us with mobility impairments, but I urge you to prioritize dedicated routes on and off the street for motorized disabled transit, bikes and walking (including rest points for people walking at slower speeds) and to limit through-traffic to major streets only. Ensuring public safety from theft or assault is also a disability issue in terms of ensuring all residents can safely navigate each street and participate in city life.
- sidewalks, curbcuts and traffic lights especially at intersections.
- Sidewalk maintenance. It's like off roading for those in wheelchairs. I often see them choosing to ride in the street because of how bumpy and broken up the sidewalks are. The city needs to manage the tree root systems better than just patching with asphalt. The sidewalks and curbs need to get opened up and have the roots trimmed. I literally punctured a tire parking in front of my own house because of the sharp broken curb poking into the street.
- Identifying those who are deteriorating in ability to get around and self care. I know some and worry about others I see nearby. B. Similarly, provide support for those whose fixed income is leaving them house rich and otherwise impoverished and scared. Saw 2 such this week, I think. Offer house-share program, rigorously run? Rent counter space from US Post Offices for safe places for people to go for financial questions (or introduce bill in Congress to do the same) C. Provide training and tablets with internet access and tech support for all elders and disabled to follow public events, join meetings,
- Make Berkeley "walkable" for all. Easy curbs, smooth sidewalks.

- Emergency services (for earthquakes, fires and smoke, flash floods, etc.) for disabled people, especially those who live alone or don't have friends or know their neighbors
- SMOOTH STREETS/SIDEWALKS
- accessibility to online information. As everything is data driven surveys like this etc persons with disabilities can't provide data unless the online surveys are accessible. For instance this survey accessibility is poor. It is unclear where insertion points are in order to fill this out using a screen reader.
- more accommodations
- Fixing sidewalks so they don't have large cracks or elevated areas due to roots. Shattuck north of Hearst Ave is in terrible shape, dangerous to cross Shattuck at crosswalks due to crumbling street. My elderly parents find it dangerous to cross the street due to potholes and gaps in asphalt. Please look into repaving Shattuck north of Hearst to Rose St.
- stop the performative BS and get back to basic "infrastructure" and "maintenance" duties. Why did we incorporate into a "city" shared public entity cooperative in the first place? And do not pretend that basics somehow need special, restricted, -- i.e., extra -- funding streams.
- Hearing aides subtitles
- Improvements to accessing public facilities and sidewalk/curb retrofits
- Smoother, safer sidewalks; more navigable city website
- I think that traffic calming and safe street crossings are the most important issue for persons with disabilities in Berkeley. I find it heartbreaking and frustrating to watch people with mobility limitations try to cross busy streets. I wish that Berkeley held the safety of those with physical limitations of a higher priority than the speed of cars.
- I think the City of Berkeley should work with AC Transit and BART to make waiting and taking transit easier and comfortable for people with disabilities or limited ability. Make special bus lanes so buses can go faster.
- Conditions of shower room and toilets T pool
- Highest priority would be ease of access to city websites. Information comes first. Then, having ease of access for quality of everyday life in the city: being able to get out and about to shop, see friends, have coffee, visit parks and libraries—to be outdoors enjoying communal life with more freedom. This approach would prioritize path of travel on sidewalks (incl. signage) and ease of access to public transportation.
- Lower car speeds, so those of us who are slower can safely cross streets, and the cars won't spin out and have accidents up on the sidewalks. Just in the last year, 3 cars were hit on my street (Vine off of MLK), trees were impacted by cars on MLK, and many accidents happened at intersections. Car speeds MUST be reduced, yielding to pedestrians enforced, and red light/stop sign running enforced.
- Besides repairing sidewalks which will benefit everyone but especially persons with disabilities, improve street lighting at intersections because persons who move slowly due to disabilities are endangered even more than the rest of us crossing dark streets at night.
- Specific: \*Provide online maps and detailed info about how to access public facilities, how to get there & closest stops/parking, how precisely to find the accessible entrance, how precisely the entrance works, what precisely to do when it does not work or is not accessible, how/who to follow up with afterward (both in facilities mgmt and in office/event mgmt) \*Provide detailed online info about what to expect at a given office or type of appointment, how long it will take, which topics/questions to be ready to address, how the space is set up/where amenities are located (diagrams/maps are great), what accommodations are readily available & how/when to request them, what access difficulties can arise (even/especially if there is not yet a satisfactory "fix") Overall: \*Work from a mindset of

trust that disabled people ask questions (or for a particular accommodation) for a good reason that is based in years of experience & is intended to minimize wasted time/difficulty for everyone involved \*If there is any way to incorporate choosing options/accommodations "up front" such that everybody encounters them as neutral choices, that is almost always easier and preferable to the "around back" option/accommodation which requires finding the right person to ask for "special treatment"

- ramps, handrails and cut outs hearing and visual aids
- SAFER STREETS - enforce traffic laws, restrict cars from some streets and SLOW CARS DOWN
- improvements in accessing public facilities
- Upgrades to city sidewalks to remove cracks, bulges and gaps especially where tree roots have busted them up.
- Fix accessibility issues around city construction projects. Bad signage, poor alternative routes, project length, unpredictable changes in usage.
- Improving sidewalks and ensuring sidewalks are not blocked
- Sidewalks
- Doing something about the open air asylum that is downtown/people's park.
- Make crossing streets safer. With so little parking, I often walk, but people rarely stop, many speed, many ignore signs, many read their phones as they drive, etc.
- Tear down those walls
- Understanding the range/scope of physical limitation of people with disabilities. Often people assume that those with limited mobility need car infrastructure, which some may. But many with physical disabilities actually can't drive a car and navigate the city in assistive devices, including bicycles. I think a very high priority is to gain a complete understanding of how people with physical disabilities navigate Berkeley.
- Fragrance-free spaces
- More accommodations
- inclusion of people with diverse disabilities on all these commissions and departments
- The main problem is no consideration for seniors -- all of us have some 'disability' or another -- when planning anything. Removing basically all the parking downtown means that those of us who cannot walk in the dark given the condition of sidewalks and streets, have no access to downtown. If we need to go shopping or to a bank it is impossible. I stopped going into downtown Berkeley several years ago. Now the city has cut off any use of Ace Hardware that I formerly used as my main hardware store. Impossible to carry things home from there and I spent ten minutes this week driving around and around to find parking. What the city is doing in terms of closing and diverting streets is damaging to the environment for many if not most of us.
- Improving access to public facilities
- Making sidewalks and street crossings easy and safe. Improving transit access (more frequent buses and bring back the 80! -- it serves Alta Bates \*and\* BART).
- Ask people who actually have a disability- I can't speak for them.
- Provide more accommodations.
- Improve safety and get homeless camps of the sidewalks. Wheelchairs cannot pass through many Berkeley sidewalks because of tents. The city is not keeping Sidewalks Accessible. Scooters and bikes from tech companies are often found in curb cuts and blocking sidewalks again for a wheelchair users or people with other mobility devices. The city is no longer safe for people that use Wheelchair's to travel alone, people are assaulted and robbed from.
- I am a disabled bicycle rider and I would like to see more protected bike lanes
- curbs

- Fix the sidewalks They are treacherous and keep cyclists et al off them!
- shortening crosswalks, making drivers slow down, city wide speed limit of 20 mph in all residential areas
- RESTROOMS EVERYWHERE, wheelchair accessible, of course
- Making crosswalks more accessible. Cars on streets go way past speed limits which makes crossing streets, especially busy streets such as Ashby and San Pablo very difficult!
- clean accessible restrooms for everyone would help. So many coffee shops and drug stores seem to have closed them indefinitely. Elders are encouraged to drink fluids to avoid dehydration, yet it is difficult to find a restroom in shopping areas.
- Pedestrian priority over cars
- We've had a tragic number of pedestrian deaths this year. Please increase enforcement of drivers who speed, run red lights, and don't stop for pedestrians. Also, I'm really frightened of all the criminal activity on our streets. If nothing else, I'd appreciate more lighting.
- Fix the egregious sidewalk problems, heaves from roots, holes, bad angles. If property owners do not maintain access, cut overgrown plantings that make sidewalks unpassable. This is important everywhere, but especially along major routes (ie. MLK, Sacramento, Cedar, etc.) Create a map with safe travel paths while this is being done.
- Get the accessibility complaints. Watch the disability commission run their meetings, File a complaint when necessary
- Mobility via roadways, not enough for able-bodied, not to mention disabled.
- The disabled residents should be in the shelter or other roofed housing not on the streets or in the parks.
- clean sidewalks of the filth
- All sidewalks should be suitable for wheelchairs and people with limited mobility. Also, all parks should have accessible equipment and access for people with limited mobility.
- bad question, if a person is having trouble with access, then for them at that time, the problem comes to the high ranking problem area; naming one, what's the theory here? If the majority of us say audible signals, then look out budget? If it's trees that hit me in the head? Well that hurts you know, makes me mad. Ask us something more open ended, I know research design, but if you actually want to know; ask: Talk about you in Berkeley, the good, the bad, and the ugly.
- pave and/or patch the streets
- Access to all service, public or private, depend on safe streets for everyone. Berkeley's current street infrastructure prioritizes cars above all else. People with disabilities may not own or want cars, but have every right to accessible mobility infrastructure in public right-of-ways. \*\*More than accessible public buildings, the fabric of the city, our streets must be accessible for all. \*\* Separating sidewalks for pedestrians versus mobility lanes for cyclists, wheelchairs and scooters would go a long way to safer streets for everyone. Do not assume that people with disabilities will travel via car or even transit.
- mobility, self-help features (paths of travel, buildings access, electronics support systems, wayfinding)
- Do something about more public transportation, more frequent, less threats in Downtown area.
- 1.Safe, affordable and reliable transportation and 2.website accessibility
- Disabled parking spaces, without a doubt
- Disabled people need to get out, walk and exercise too. Make sure all sidewalks are flat and large enough. The focus changed from cars/streets to bikers/bike lanes. In my home country, pedestrians and their safety are the main focus. That is what needs to happen here.

- broken sidewalks
- Many of us are aging and will need more help both intellectually and physically.
- Smoother sidewalks and streets.
- creating more routes for people with disabilities to get to where they are going to without disturbances
- Sidewalks and clean access no garbage in order to access public services
- stop taking street parking for cars away from business districts.
- Improving public facilities.
- maybe build homes for them? You know... so they don't have to sleep in the streets maybe?
- Providing more accommodations for persons with disabilities
- Assuring that all public facilities AND shops are accessible to wheelchair users.
- Handicap parking spaces downtown (Shattuck), though I know that you are trying to make driving less necessary
- Improvements to accessing public facilities.
- providing more accommodations for persons with disabilities
- Smooth paving of city streets is essential. Smooth cross walks are essential. Timing of traffic lights, particularly on University at Shattuck should be such that compromised people have adequate time to cross. This is a no brainer and costs zero!
- Accessible streets and parks help everyone.
- Maintaining sidewalks, and curb cuts in general. The new bike lanes on Adaline (As well as other streets in Berkeley) make it very difficult for oncoming traffic to see pedestrians in wheelchairs. I feel less safe crossing Adeline due to the visual barrier created by cars parked along the bike lane. Maintaining functional elevators at the Berkeley BART Station's. Ensure ongoing, adequate funding for Eazy Does It emergency services.
- The sidewalks are sometimes difficult to navigate because of tree growth that causes buckling. Also, some of the streets aren't safe to cross near Ashby/Elmwood and Downtown Berkeley because of the speed of traffic. It was really helpful when the City added a pedestrian/bicycle crossing at Hillegas and Ashby.
- easy zoom access for all zoomed activities.
- Accommodations for people of any age with physical disabilities
- Not enough concern for Senior citizens being able to afford to live in Berkeley and for those that don't use public transportation
- providing more accommodations for persons with disabilities
- anything to do with traffic on the streets
- safe traffic crossings
- more ramps and more blue parking curbs so handicapped have more access to businesses, stores, offices, etc.
- I believe the City's priority should be all of the above and MORE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES.
- Curb cuts and make sure that sidewalks aren't blocked by cars or trucks. When sidewalks are closed for construction make sure that a safe and marked walkway is provided.
- No opinion
- That's really for them to decide.
- improvements to accessing public facilities
- improvements to accessing public facilities, providing specific hearing and visual aids for events and public meetings, providing more accommodations for persons with disabilities,
- Since Berkeley is its own public health district, identifying people with disabilities for specific interventions such as home visits for Covid 19 vaccinations and boosters should be a

systemwide priority. This is a complicated ask, but could be achieved by starting with the US Census data from the American Community Survey disability question set.

- I do not have any opinions on these matters.
- Keeping sidewalks clear and usable and providing curbscuts where needed should be the city's highest priority. Getting around town is difficult enough. Bad paving and landscaping can make it impossible.
- Better (flat, even, safe, non-tripping) hazards for sidewalks and pedestrian walkways.
- Because so many students are in Berkeley and are able bodied, the City seems to think its senior population and others can just jump on bikes to get places. What about when one has to carry groceries, etc. This anti-auto position of some of our City representatives is not reflective of the needs of the majority of our population IMHO.
- Housing for disabled, make it easy to find resources
- Providing more accommodations for persons with disabilities, specifically parking spots. We've lost about 15 spots near the Downtown Y.
- Single stall restrooms for mental disabilities and motor disabilities. But above ALL accessible curbs and sidewalks, especially in residential neighborhoods. Furthermore, outreach to ignorant businesses/business owners who fail to comply with service animals or ADA accessibility otherwise.
- Quit prioritizing bicycles over everyone else. Eliminating parking is a disaster for those of us who aren't physically capable of riding a bike and need our cars to live independent lives
- Hearing and visual aids
- MORE HEALTH CLINICS THROUGHOUT THE CITY WHERE PARKING IS AVAILABLE. 2. Make the [*profanity redacted*] sidewalks and curbs accessible on every single sidewalk and street in Berkeley. We have whole blocks of streets in the Berkeley Hills that don't have sidewalks at all that are deadly for your disabled residence. Put inside walks and put in flats safe sidewalks for your disabled residents in wheelchairs, who use walkers, and who are simply mobility impaired.
- Repair sidewalks.
- Highest priority should be safety in the public right-of-way, especially sidewalks and crosswalks. A secondary priority would be publicly accessible, clean bathrooms distributed throughout the city at public buildings and parks.
- Sidewalks and streets. Roadways don't just impact cars. Intersections are pedestrian space too. City seems to think streets just mean potholes.
- Improvements to accessing public walkways (crosswalks), and to accessing emergency escape routes in the event of a disaster (railings and steps where needed).
- The basics: wheeled-vehicle accessible sidewalks and buildings
- I think city is ahead of many places. Since I broke leg I am more aware where I have difficulty. Mainly heavy doors w/o electric assist-all business es should be required to accommodate this need. I heard the yellow curb cuts can be slippery and dangerous in wet weather.
- Improvements to accessing public facilities
- First fix the sidewalks. They are a real menace to the visually impaired
- Improve the sidewalks and mark crosswalks better so vehicles will stop when pedestrians are crossing.
- Improving access to public facilities and providing more accommodations for persons with disabilities.
- Parking places. More designated handicapped parking places, and do not take away any more parking, especially in business districts and shopping center areas. Bike paths are not as

pressing for an aging population and disabled people who need to drive close to where they are going.

- More emails.
- Improving safety at all public facilities, streets, crosswalks and parks
- Providing more accommodations for persons with disabilities
- More kindle e-books for library
- Make it safer for persons with disabilities to walk around the entirety of the City. To many cars versus pedestrians accidents lately and this is even more of an issue for those with disabilities.
- Access to everything. Safety particularly protection from bicyclists.
- improvements to accessing public facilities and pedestrian safety

## **Input from Organizations**

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Respondents were asked what they considered to be high priorities for accessibility and to provide comments and suggestions. A summary of the responses from organizations includes:

- Physical accessibility, including safety measures e.g. seniors and people with mobility disabilities living above the 1st floor in an elevator building that does not operate in the event of power outage, etc.).

## **Input from Staff**

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Respondents were asked what they considered to be high priorities for accessibility and to provide comments and suggestions. A summary of the responses from the City staff includes:

- Have a well trained advocate that can be called to problem solve, advocate for the tenant or resident. ADA takes interactive accommodation, finding resources, taking assessment of need, determining what is 'reasonable.' 2) Support the Disability Commission to reach out to persons with disabilities to identify unmet needs 3) upload free webinars for landlords and businesses re/ Service Animals and other accommodations, and resources available that the city provides. 4) Raise awareness and urgency of preparation for our aging population who tend to have more physical and mental challenges with time (need more Senior Social Workers to assist persons with disabilities)
- Implement ADA requirement
- no opinion at this time.
- Probably curb ramps since it's an older city and not up to code in a lot of places
- Unsure I am qualified to answer. I would say to continue to maintain access for this community.
- Training staff. I scrolled back to this question. As I was answering, I think I do not know as much about ADA as I thought I should know.
- I think I'd want to hear this from people in the disability community.
- Unclutter the downtown area of the "NEW" buildings and parking bulbouts, and reimagine AGAIN the "OPENINGNESS" Berkeley once had that allowed people to travel more freely. i.e. Single-spaced meters, open sidewalks, more street parking without the bulbouts, etc.
- It would be great to have tactile maps in our buildings such as the Library (and the branches). Library resources such as computers for patron use should be downloaded with the latest software to help people have the ability to communicate with limited mobility, blindness, and/or Deaf/ Hard of Hearing. I guess improve digital/ tech resources and navigational improvements in our City's buildings.

- Making facilities more easily accessible.
- sidewalks that are free from debris, cracks, homeless, garbage. Too many in the city hall Berk high area are defective and dangerous
- Making sure that adequate resources are available to accommodate every need, no matter how great or small.
- Removing trees that have outgrown their location, planting more appropriate trees in more appropriate locations, and maintaining the sidewalks in a manner that lessens the currently ridiculous amount of SEVERE trip hazards.
- Addressing sidewalk/intersection path of travel.
- a broad understanding of what a disability is - mobility, intellectual, psychological, sensory disabilities all require different levels and types of responses and if we are not aware of them then we are going to fail users.
- 2180 elevator on Milvia. 2) design update, roadmap funding & build out of all public meeting spaces and shared conference rooms. 3) build out of all public meeting spaces. 4) standards/designs for individual staff accommodations and cost-allocation. 5) standards/designs for individual staff accommodations and cost-allocation. 6) build out of all open/shared conference rooms.
- Accessibility assessments
- Citywide staff baseline trainings on compliance, accommodations and customer service
- I think an annual refresher course for staff like the sexual harassment training.
- city of Berkeley employee training on handling ADA request, ADA cob liaison. Information should be posted in the department areas.
- Training City employees on laws and procedures about ADA
- Sidewalks.
- I don't know. Maybe starting with internal training and bringing in experts (or members of the disabled community) to help educate the City on best practices and what they need.
- Getting feedback from people in the community who have disabilities and training staff to better understand ADA requests and the needs of disabled people.
- Staff training.
- On line access for all city services requests for the physically challenged. (<https://www.accessibility.works/blog/2022-ada-wcag-website-accessibility-standards-requirements/>) TTL service for hearing challenged for 311 and other city phone numbers. ADA compliant web sites for staff as well as persons the city serves and vendors.
- Working handicap door buttons
- There is a great need for older seniors and people with disabilities to have ADA modification done to their place of residency. Currently, I oversee a program that provides housing rehabilitation and I oversee several contracts that provide ADA improvements. However, since we utilize federal funds, the projects have to receive Environmental Review approval. It would be fantastic if the City was able to provide General Funds to ADA improvements so nonprofits can address immediate needs for ADA improvements/modification then the Federal funds can be used on larger ADA improvements and less urgent needs. Thank you.
- nothing in particular
- I spend my time outside looking for problems in the urban forest in an attempt to fix them in the future plans. Related to my perspective: we need to develop a tool kit of solutions to address our collection of narrow and damaged sidewalks, and define a better solution to tree/street and sidewalk conflicts. We know the problems to address. However, the lack of diverse solutions mean we have either a rigid and non-impactful response, devolve to blaming other departments, or just do nothing at all in response to predictable challenges. Our current



focus is to prevent future ADA issues by avoiding future challenges, and we hold strong to our conservative standards, but this leaves prime sites underutilized. In addition, the current state of non-response leaves residents non-willing to embrace a new tree growing near their home/business/property, assuming the same problems will arise again.

- Sidewalks and curb ramps where there are none, not even a non compliant ramp
- Ensuring funding is available to meet any needs related to improving accessibility.
- Making sure customer service is available to the public that is ADA accessible, so that areas that interface with the public are compliant.
- not sure
- Encouraging disabled people to run for office, and appointing qualified, experienced disabled people to responsible positions in the City.
- it should be done in a timely manner.
- Sidewalk repair
- Safe, clear path of travel
- I think that this direction should come from the City of Berkeley's disabled community not City staff.
- Treating ADA as a component of our overall effort to increase equity. Everyone should be operating with an equity lens.
- 2180 front and back doors that have a continuously functioning ADA press button to open the too heavy doors. With the 2180 back elevator now being blocked by a locked gate that must be pulled outwards to open and a front ramp that has too high of an angle, it is very difficult for ADA people and staff to get into 2180 milvia. 2180 interior wing doors are excessively heavy for ADA people to have to pull towards themselves to open. The small elevator buttons on every floor of 2180 are very hard to activate and must be pressed very hard multiple times, sometimes hitting them to activate them. The lights in the buttons are hard to see in the afternoon when the sun shines thru the lobby windows making it near impossible to see if the button has been activated.
- Sidewalks
- I don't think I have enough knowledge to form an opinion.
- I'm not qualified to answer that. I would say that I am curious about which mental health disability accommodations are provided at the City, since it could be stigmatized.
- Door openers on all primary entrances and restrooms and translation services including ALS, braille, and languages representative of the population of Berkeley.
- Getting staff up to date with all the different guidelines and codes and how they apply to public right-of-way as that is our most publicly used "facility"
- Quality of our sidewalks isn't unacceptable for those who use walkers and/or wheelchairs, and this is where I'd focus. But I'm open to an alternative.

## **RECOMMENDATIONS**

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- As the City met and exceeded the requirements for soliciting input into the development of the plan, no additional activities are required. However, the City may wish to conduct periodic customer satisfaction surveys targeted for persons with disabilities or gather input from recipient of services as an ongoing activity. An additional emphasis may include outreach activities to collect and integrate input from persons with disabilities and organizations representing persons with disabilities on an ongoing basis.

## Accommodations for Persons with Disabilities

A public entity must administer services, programs and activities in the most integrated setting appropriate to the needs of qualified persons with disabilities, i.e., in a setting that enables persons with disabilities to interact with nondisabled persons to the fullest extent possible, and that persons with disabilities must be provided the option of declining to accept a particular accommodation (§ 35.130(d)(e)).

Statements of accommodations should be available on public notices, agendas and other documents. A statement regarding reasonable accommodations or modifications that can be provided by the City generally affords persons with disabilities an opportunity to participate in meetings, events and programs of the City. For example, a sign language interpreter or assistive listening device may be needed to participate.

### FINDINGS

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The majority of the findings for accommodation statements are compliant, but a few recommendations are made to enhance compliance.

- ✓ Statements of accommodations were found on the sample selection of public meeting agendas that were reviewed. Of the agendas reviewed, the statement was consistent for the process of requesting an accommodation. The following examples are from a City Council meeting agenda and a Board of Library Trustees agenda, both held in June 2022:

**COMMUNICATION ACCESS INFORMATION:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date. Captioning services are provided at the meeting, on B-TV, and on the Internet.

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair-accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

- ✓ City Municipal Code 23.06.090 states that "This section establishes a process for the City to approve modifications to development regulations to support equal access to housing for persons with disabilities. This process is established in accordance with the Federal Fair Housing Act, the Americans with Disabilities Act, and the California Fair Employment and Housing Act."
- ✓ Information on the City's website about the Berkeley Community Emergency Response Team (CERT) states that accommodations can be made for persons with disabilities who want to participate in the training:

This material is available in alternative formats upon request. Alternative formats include audio-format, Braille, large print, electronic text, etc. Please contact the Disability Services Specialist and allow 7-10 days for production of the material in an alternative format.

Disability Services Specialist  
Email: ADA@cityofberkeley.info  
Phone: (510) 981-6418  
TTY: (510) 981-6347

In-person trainings are held in a wheelchair-accessible location. To request a disability-related accommodation(s) to participate in the training, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to in-person training.

- ✓ The registration form to enroll a child in a program offered by the City's Recreation Division provides an area for a parent or guardian to inform the City of any physical or cognitive disabilities. A recommendation to enhance the compliance of the form would be to request information on any accommodations that the applicant may need, instead of asking to disclose a disability.
- ✓ The City's webpage that explains the methods for making a public records request states that accessible formats such as audio, braille, large print and electronic text are available upon request from the City's Disability Services Specialist.
- ✓ Statements of accommodations were also found on announcements for numerous community meetings and events.

## **RECOMMENDATIONS**

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- To provide consistent and accurate statements of accommodations, it is recommended that a standardized "statement of accommodations" be included on postings (hard copy and on the website) of agendas, meetings, events, programs and activities for public facing documents. The standardized accommodation statement should include language regarding a minimum timeframe to request an accommodation and includes the contact person, address or location, phone number and email address.
- Information regarding the purpose and requirement for an accommodation statement and training should be developed and disseminated to all City departments.
- Alternate methods for requesting an accommodation should be added to all statements of accommodations and should include phoning in the request, postal mail, email or dropping off the request for accommodation at City sites.
- Contact information including a TDD/TTY or California Relay number for requesting an accommodation should be included on all statements of accommodations.

## **Access to Programs, Services, Activities and Events**

A public entity may not adopt official policies that are discriminatory or engage in practices that are discriminatory. This prohibition applies to policies that are explicitly exclusionary and to those which appear to be neutral but have a discriminatory effect (28 CFR §35.130(b)(3)). Title II of the ADA requires public entities to ensure that all public meetings and events sponsored are readily accessible to persons with disabilities and provide opportunities for participation. Policies and procedures need to ensure that persons with disabilities are provided equal opportunity to access programs, services,

and activities of the City. Part 35.149 specifically requires nondiscriminatory practices in order to have program accessibility. The ADA/504 does not specifically state how a public entity provides for accessibility to programs, services, and activities.

Under the ADA, the City is required to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.” The City is required to do so unless it can demonstrate “that making the modifications would fundamentally alter the nature of the service, program, or activity” [28 CFR § 35.130 (7)]. Public entities are subject to all applicable state and federal laws that govern accessibility for persons with disabilities. These laws include the Americans with Disabilities Act, the federal Section 504 of the Rehabilitation Act of 1973, and state constitutional provisions.

Except as otherwise provided in § 35.150, no qualified individual with a disability shall, because a public entity’s facilities are inaccessible to or unusable by persons with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

## **FINDINGS**

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Overall access to programs, services, activities was found to be compliant.

- ✓ No intentional discriminatory practices were found regarding access to programs, services and activities.
- ✓ Many examples and evidence were found of the City providing access to programs, services and activities for compliance with the ADA, Section 504, housing, facilities and public rights-of-way.
- ✓ The amenity description of Cesar Chavez Park found on the City’s website states that the park’s hiking trails includes the Dorothy Stegmann trail around the park’s perimeter, which is fully wheelchair accessible.
- ✓ The City’s Disability Compliance Program webpage notes that the City offers several programs and services for persons with disabilities, including but not limited to:
  - Parking for people with disabilities
  - Senior and disabled home rehab loans
  - Berkeley rides for seniors and the disabled
  - Shelter plus care program
  - Therapeutic recreation
- ✓ The Disability Compliance Program webpage also provides links to area nonprofit organizations that offer services to persons with disabilities:
  - Bay Area Outreach & Recreation Program
  - Bonita House
  - Berkeley Individuals Living with Disabilities
  - Center for Accessible Technology
  - Center For Independent Living
  - Easy Does It Services
  - Through the Looking Glass
- ✓ Through the City’s parking program for persons with disabilities, people that have a disabled placard or license plate may apply for a keycard that will allow the card holder free parking

at City owned public parking garages. The program guidelines state that there is a one-time activation fee of \$15. There are no renewal fees or expiration timeframes noted. Applications can be made in person, by appointment with keycards issued immediately, or an applicant can send the required documents by email and have the keycard mailed to them.

- ✓ Per the Senior and Disabled Home Rehab Loans program, "Low-income seniors and people with disabilities can apply for interest-free loans to make necessary repairs to their home."
- ✓ Berkeley Rides for Seniors & the Disabled (BRSD) provides free taxi/wheelchair van vouchers to eligible senior and disabled residents. The taxi/van vouchers are used for rides provided by designated taxicabs and the City's accessible wheelchair van service provider.
- ✓ The City of Berkeley's Therapeutic Recreation Program provides support for community members of all abilities to actively participate in quality recreation programs. The Therapeutic Recreation Program offers inclusive services that support youth with special needs, ages 5-12 (in summer) and grades K-5 (during the school year) at James Kenney Community Center. Scholarships are also available to eligible participants.
- ✓ The City's Winter/Spring 2020 Activity Guide lists a program for "Senior/Disabled Quiet Swim" which states that space at the King Pool and West Campus Pool is dedicated for quiet use by persons with disabilities and those ages 55 and over.
- ✓ Program information for the City's Community Emergency Response Team (CERT) states that in-person trainings are held in a wheelchair-accessible location, and that accommodations such as auxiliary aids and services, and materials in alternate format are available.
- ✓ The City's webpage offering information on accessing mental health services states that both the Adult Mental Health Clinic and the Family, Youth and Children's Services Clinic are ADA accessible.
- ✓ Multiple methods to register for the City's recreation programs are available, including an online portal, in person, by mail or by email.
- ✓ City Municipal Code 9.52.095 requires that Accessible Taxi permit holders maintain the vehicle and adaptive equipment in safe operating condition, and that driver's assigned to accessible taxis are trained and proficient in operating the adaptive equipment and assisting passengers.
- ✓ City Municipal Code 9.52 states that it is unlawful for a taxi driver or taxi business owner to refuse a prospective fare or discourage a prospective fare on the basis of a disability or use of a service animal.
- ✓ City Municipal Code 13.31 regarding discrimination in property rental states "In the City of Berkeley, it is unlawful to restrict housing choice on the basis of race, color, disability, religion, sex, familial status, national origin, sexual orientation, marital status, ancestry, age, and source of income."
- ✓ City Council meetings can be viewed live using Zoom, on the City's website and on local television stations. Videos of past meetings can be viewed from an archive of recorded meetings on the City's website. A sample of recorded City Council meeting were reviewed from available MP4 files and were found to offer closed captioning.

## RECOMMENDATIONS

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- A few general examples to increase access to programs, services and activities include, but are not limited to:
  - Public entities that adopt website postings as an alternative method of notice must ensure that the website is readily accessible to people with disabilities, including persons who use screen readers.
  - Applications should be available in other methods and not only online.
  - All open meetings of public entities must be accessible to persons with disabilities. Meeting locations must be accessible without the need for special assistance.
  - Sign language interpreters for deaf or hearing-impaired persons must be provided, subject to reasonable advance notice.
- The City should continue to disseminate information in a variety of locations and methodologies with accessible formats to enhance the access to programs, services and activities.
- The ADA Coordinator should continue to monitor and receive information regarding concerns or issues about access to programs, services and activities and take the appropriate action regarding any potential discriminatory practices for persons with disabilities.
- Social media platforms should be reviewed on a regular basis to make sure that they are accessible for persons with disabilities.
- The ADA Coordinator should continue to monitor programmatic access and the removal of structural barriers in the transition plan.
- Additional and ongoing training should be provided regarding the requirements of the Americans with Disabilities Act and accommodations that provide equal access to programs, services and activities.
- Meetings and events open to the public should be held in buildings that meet accessibility requirements, or in the accessible portion of the building with accessible elements that serve the area where the meeting or event is held. For example, parking, restrooms and drinking fountains that serve the area where the meeting and event is held should be accessible.
- Information regarding a facility should include information regarding accessible features and elements of the site. For example, accessible parking, accessible restrooms and other items and elements should be indicated on documents and on the website. Indicating accessible paths of travel and accessible entrances also provides valuable information for persons with disabilities. A contact number and email address should be provided for additional assistance.
- Information about how to request accommodations should appear on public-facing notices, announcements, flyers, publications and agendas. Information should be disseminated to all departments and divisions regarding the statement for accommodations requirement.
- The City should provide training for staff and volunteers regarding accommodations for persons with disabilities. All staff, particularly frontline staff such as receptionists and staff with high public contact, should receive training on interacting and accommodating persons with disabilities.

- Additional training materials and videos should be purchased or developed to assist with training efforts and to allow for access by City staff as schedules permit.
- The City's ADA Coordinator should assist departments with planning and budgeting for selected accommodations, such as large print, Braille materials and other accessible formats.
- A centralized method for producing alternate formats, such as Braille, may provide a cost savings and reduce the timelines to produce alternate formats.

## Outreach Materials and Activities

The ADA does not specifically state how a public entity provides for accessibility to the City's programs, services and activities. One method is to disseminate information in a variety of locations and formats to enhance the access to programs, services and activities of the City.

## FINDINGS

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- ✓ Multiple methods of communicating with the public who take advantage of the City's programs, services and activities were found during the assessment.
- ✓ Per Municipal Code 3.66, the City of Berkeley has established a Commission on Disability which acts as an advocate to make the City of Berkeley more accessible to people with disabilities. The Commission is charged with actively promoting the total integration and participation of persons with disabilities into all areas of economic, political and community life. The code states "The commission membership shall be primarily persons with disabilities. The commission membership shall be representatives of different disability groups, including physical, sensory and mental disabilities, and shall be representative of gender, age, and racial groups in the community."
- ✓ The City of Berkeley 2018-2019 Strategic Plan includes a goal to create affordable housing and housing support services for the most vulnerable community members. A plan to achieve the goal included the launch of a Homeless Outreach and Treatment Team (HOTT) Program designed to provide outreach and treatment for homeless individuals in the community with serious mental health disorders, helping them to access the services they need and get housed.
- ✓ Per Therapeutic Recreation program webpage, the City is involved in the Bay Area Outreach and Recreation Program (BORP). The website for BORP states that the program's mission is "to improve the health, independence and social integration of children, youth and adults with physical disabilities and visual impairments through sports, fitness, and recreation programs. BORP was founded in 1976 by people with disabilities and remains a leader in the field of adaptive sports, fitness, and recreation." BORP provides a comprehensive menu of adaptive sports, fitness and recreation programs for people with physical disabilities.
- ✓ At the time of the evaluation, the City of Berkeley was in the process of updating its Housing Element and was providing numerous opportunities for the public to offer feedback and comments on the draft document. The City held many City meetings and community engagement events, surveyed renters and interviewed stakeholders as well as offering a copy of the draft plan online that viewers could click on to make comments right on the page.
- ✓ The City offers a variety of methods for the public to participate in public meetings, including viewing the meeting live over the Zoom teleconference platform, watching a live meeting on

local television stations and sending comments in advance of the meeting to be added to the meeting record.

## **RECOMMENDATIONS**

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Additional recommendations listed will maintain and enhance the requirements and do not reflect corrective action.

- The City should consider including additional pictures and references to persons with disabilities in publications, brochures and materials.
- Organizations representing persons with disabilities and areas with an increased population of persons with disabilities could be targeted for input regarding additional methods to disseminate information regarding programs, services and activities of the City.
- The City should consider targeted methods to increase the inclusion of persons with disabilities on commissions and committees, in addition to the City's existing Commission on Disability.
- In City publications or on the City website, areas or services that are accessible should be indicated with descriptive text and the International Symbol of Accessibility (ISA). For example, accessible restrooms and routes can be designated on the website, on maps and in publications.

## **Service Animals**

Persons with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go (28 CFR § 35.136(g)).

The Department of Justice (DOJ) published revised final regulations implementing the Americans with Disabilities Act (ADA) for Title II (State and local government services) and Title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

Beginning on March 15, 2011, only dogs and miniature horses are recognized as service animals under Titles II and III of the ADA. A service animal is a dog (in some cases a miniature horse) that is individually trained to do work or perform tasks for a person with a disability. Public entities, such as the City, must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

## **FINDINGS**

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- ✓ City of Berkeley Resolution No, 65,751-N.S "Service Animals Welcome in Berkeley" was adopted by City Council on May 29, 2012. The resolution is intended to expand upon the City's service animal policies by offering education and information to City of Berkeley business owners regarding their responsibilities to permit service animals to accompany persons with disabilities in their establishments. The City provides a service animals information bulletin to help businesses and service dogs' owners understand their collective rights and responsibilities relating to service animals.



- ✓ The Pet Licenses page of the City’s website includes a list of several dog regulations regarding leashing and cleaning up after a dog. The regulations state that the restrictions do not apply to service animals.
- ✓ City Municipal Code 9.52.120 regarding taxi owner and driver conduct states “a driver may inquire whether an animal is a service animal but may not require a disabled person to show any documentation of disability or certification of the animal’s status as a service animal. The driver may require service animals not in carrying containers to remain on the floor of the vehicle.”
- ✓ City Municipal Code 10.04.032 states that “the license fee for any "service dog" shall be waived. "Service dog" shall mean any guide dog, signal dog, or other dog that is individually trained to do and is doing work or performing tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to sounds, providing rescue work, pulling a wheelchair, or fetching dropped items.”
- ✓ Section 342.2 of the Berkeley Police Department Policy Manual states that “It is the policy of the Berkeley Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.”
- ✓ Multiple City municipal codes which were reviewed that include restrictions to where dogs and pets are permitted on City property were found to state that the regulations do not apply to dogs that are service animals.

## **RECOMMENDATIONS**

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- Staff should be provided information regarding service animals to understand the definition of a service animal and that service animals must be permitted to go to all public areas with a few exceptions such as spas. Information should be provided to staff to assist them to recognize a service animal and to understand the questions that they can ask. It should be clarified that it is never acceptable to ask about the person’s disability.
- The City should maintain policies regarding service animals for all applicable programs, services and activities of the City.
- The City should not exclude certain breeds of dogs as restrictions for a particular breed may be discriminatory and may exclude a qualified, trained service animal.
- Information about service animals should be provided to City staff, in addition to training regarding service animals, and provided in publications.
- Language in any pet ordinance should be modified or updated to ensure it is inclusive and not limited to only dogs or guide dogs, or to a specific type of disability.

## **Other Power-Driven and Shared Mobility Devices**

According to the Department of Justice: “Other power-driven mobility device means any mobility device powered by batteries, fuel, or other engines whether or not designed primarily for use by persons with mobility disabilities that is used by persons with disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), or any

mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.”

A public entity is required to make reasonable modifications to their policies, practices, and procedures when necessary to enable an individual with a disability to use a power-driven mobility device to participate in its services, programs, or activities unless doing so would result in a fundamental alteration of their services, programs, or activities (28 CFR § 35.137(b)).

A public entity shall permit persons with mobility disabilities to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by persons with mobility disabilities in any areas open to pedestrian use, unless the public entity can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the public entity has adopted pursuant to 35.130.

In determining whether a particular other power-driven mobility device can be allowed in a specific facility as a reasonable modification, a public entity may consider:

- The type, size, weight, dimensions, and speed of the device;
- The facility's volume of pedestrian traffic;
- The facility's design and operational characteristics (*e.g.*, whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary equipment, furniture or devices);
- If legitimate safety requirements can be determined to permit the safe operation of the other power-driven mobility device; and
- If the use of the other power-driven mobility device creates a substantial risk of serious harm to the environment.

## **FINDINGS**

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- ✓ No Citywide policies or procedures were found regarding other power-driven mobility devices (OPDMD).
- ✓ The terms and conditions in the application packet for the City’s Shared Electric Micromobility Permit Program states that operators must provide Adaptive Devices for persons with disabilities. The total percentage of Adaptive Devices shall be based on expected need, performance, and usage. The terms also state that if the operator is unable to deploy Adaptive Devices at the time of permit issuance, a plan must be submitted to the City of Berkeley Transportation Division within three months of permit issuance detailing a timeline for incorporation of shared Adaptive Devices within nine (9) months of the Permit issuance. The terms also state that mobile apps and other customer interface technology must be fully accessible to persons with disabilities and accessible to screen readers, and must comply with Section 508.
- ✓ While not a policy for other power-driven mobility devices, the City of Berkeley’s Electric Mobility Roadmap document includes several strategies to ensure accessible electric mobility:
  - 4a. Ensure ADA-accessible EV charging in Berkeley: Continue to implement ADA-accessible EV charging policies, both in City of Berkeley-owned projects and in permitting, following the guidance on accessible station design and requirements for the number of accessible of chargers per site, as set forth by the state. Continue to gather input from CIL, World Institute on Disability

(WID), and other stakeholders—as well as charging providers—to identify gaps in ADA-accessible EV charging and opportunities to provide additional charging for electric devices such as wheelchairs.

4b. Require accessible shared mobility options: Work with shared mobility providers, including micro mobility providers, and regulators to ensure shared mobility services are ADA accessible. Specify accessibility requirements in permitting or contracting with providers. Partner with non-profits and the private sector to ensure that shared mobility options do not cause new challenges for people with disabilities.

## **RECOMMENDATIONS**

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- It is recommended that the City develop a policy for other power-driven mobility devices (OPDMD) that are owned and operated by persons with disabilities and disseminate the information Citywide.
- Contracts and agreements for shared mobility device programs should be monitored for accessibility. Vendors and operators should continue to be notified that the programs are required to be accessible for persons with disabilities.

## **Ticketing and Seating**

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

Providing equal opportunity to people with disabilities is the fundamental principle of the Americans with Disabilities Act (ADA). This publication provides guidance on the Department's new nondiscrimination requirements that apply to selling tickets for assigned seats at events such as concerts, plays, and sporting events. The requirements, which are identical for title II and title III entities, apply to tickets sold for single events and those sold for a series of events (e.g., subscriptions or season tickets).

A public entity that sells tickets for a single event or series of events shall modify its policies, practices, or procedures to ensure that persons with disabilities have an equal opportunity to purchase tickets for accessible seating (28 CFR § 35.138).

## **FINDINGS**

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- ✓ While a statement of accommodations was found on several reviewed announcements for special events, information regarding accessible seating and companion seating was limited. There were no overall policies found for ticketing or accessible and companion seating.
- ✓ The City's Special Event Permits webpage includes requirements for organizers to ensure their event is accessible including accessible seating for wheelchair users in assembly spaces and ensuring that the pedestrian access route to the accessible seating is also accessible.

## RECOMMENDATIONS

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- The City should develop policies regarding ticketing and seating for persons with disabilities.
- The City should continue to provide ADA accommodation notices and other documents that it will make all reasonable accommodations and modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all its programs, services and activities.
- The City should describe the features of available accessible seating to permit a person with a disability to assess independently whether or not a given accessible seating location meets their accessibility needs.
- The City should provide materials, such as seating maps, plans, brochures, pricing charts or other information to identify the location and type of accessible seating.

## Fees and Surcharges

Public entities may not charge a fee or add a surcharge to a fee to cover the cost of making its facilities, programs, services, or activities accessible to persons with disabilities (28 CFR § 35.130(f)).

## FINDINGS

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- ✓ There was no evidence of additional surcharges or fees charged to persons with disabilities that were not charged to individuals without disabilities to access programs, services and activities.
- ✓ City Municipal Code 12.34.040 regarding trash collection states that persons with disabilities who are unable to place the curbside cart in the gutter area or at the curb, shall be exempt from participation in curbside service and shall receive backyard/on-property service for the same fee as charged curbside customers. Per the code, this exemption is applicable to persons with both permanent or temporary disabilities.
- ✓ Per City Municipal Code 10.04.032, the City waives license fees for service dogs.
- ✓ The City offers a free parking program at City owned garages to persons with disabilities who have a disabled parking placard or license plate. Following a one-time keycard activation fee of \$15, there is no charge for parking at City owned garages for eligible participants.

## RECOMMENDATIONS

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- The City's ADA Coordinator should continually review fee policies and practices for consistency and to ensure that fees and surcharges are not charged to persons with disabilities that are not charged to persons without disabilities.

## Emergency Procedures

Under Title II of the ADA, emergency programs, services, activities, and facilities must be accessible to people with disabilities and generally may not use eligibility criteria that screen out or tend to screen out people with disabilities. The ADA also requires making reasonable modifications to policies, practices, and procedures when necessary to avoid discrimination against a person with a disability and taking the steps necessary to ensure effective communication with people with disabilities. The ADA generally does not require state or local emergency management programs to

take actions that would fundamentally alter the nature of a program, service, or activity or impose undue financial and administrative burdens (28 CFR § 35.130(b)(1)) (28 CFR § 35.149).

The City is required to plan to meet the needs of persons with disabilities in an emergency and provide access to emergency shelter services.

## **FINDINGS**

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- ✓ The City of Berkeley's 2016 Emergency Operations Plan states "the City of Berkeley is committed to ensuring that all emergency plans and response/recovery activities integrate all community members, including persons with access and functional needs. Access and functional needs may occur in areas including but not limited to: physical accessibility, communications, medical care, access to medications and assistive technology, independence maintenance, and transportation."
- ✓ Per the 2016 Emergency Operations Plan, there is an "Access and Functional Needs Specialist" (AFN) role designated in the organizational chart. The role of the specialist is to "ensure that Berkeley's response meets the access and functional needs of impacted community members. The AFN Specialist is a resource for all Emergency Operations Center sections and responders at all levels of Berkeley's Multi-Agency Coordination System."
- ✓ The public can register to be trained to participate in the Community Emergency Response Team (CERT), which is a program designed to train citizens to assist their own community members in the event of an emergency.
- ✓ Training presentations for the Community Emergency Response Team (CERT) that are available on the City's website show that a section of the Animal Response course includes creating a disaster plan for service animals.
- ✓ The City's website has a Disaster Preparedness webpage with resources and information from a variety of agencies to assist with preparing for many types of disasters. Guidelines include ensuring that special items required by persons with disabilities are included in emergency kits.
- ✓ The Earthquake Preparedness page of the Berkeley website offers resources and recommendations for persons with disabilities to prepare for an earthquake and what to do during and after an earthquake. Some information is prepared by agencies other than the City.
- ✓ Berkeley residents can register for Alameda County's "ACAlert" which sends out notifications of emergency conditions through a user-selected method, including calls to land line and cellular telephones, TTY/TDD, text messages and emails.
- ✓ Per the City's website, Community organizations that represent or serve people with disabilities or seniors in Berkeley can register for membership in the Berkeley Emergency Accessible Community Organizations Network (BEACON). BEACON is a hub for information-sharing and collaboration between organizations and the City of Berkeley.
- ✓ Emergency evacuation maps were found in surveyed City facilities.

## **RECOMMENDATIONS**

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- The City should provide training and information regarding emergency evacuation procedures, particularly regarding the evacuation of persons with disabilities.
- The City should post evacuation routes and procedures at all City sites and on the website.
- The City should develop procedures and a mechanism to monitor the posting of emergency evacuation routes and procedures.
- The City could consider establishing a voluntary registry for individuals that may need additional assistance in the event of an emergency.
- Shelters should be surveyed to determine if they are accessible for persons with disabilities prior to be designated as an evacuation shelter. A provision should be noted to allow service animals and training should be provided to shelter staff to understand the difference between pets and service animals.
- Designated evacuation shelter sites should also be inspected on a regular basis to determine that the shelter continues to be accessible for persons with disabilities.

## **Policies for the Use of City Facilities**

The use of City facilities cannot discriminate against persons with disabilities and applications for the use of City facilities should include nondiscrimination statements. City facilities that are leased should be accessible for persons with disabilities.

## **FINDINGS**

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- ✓ The City provides opportunities for the public, organizations and businesses to lease recreational facilities for private events.
- ✓ The City has a "General Facility Rules" document available on the Facility Rentals page of the website. The rules state that the permit holder must agree to comply with all applicable federal, state and local laws.
- ✓ The Park Event Permit Application Form is on the Special Event Permits page of the City's website. The permit application includes several terms and conditions related to accessibility and nondiscrimination, such as including the locations of accessible features on site plans, ensuring there are adequate accessible restrooms, ensuring the stage is accessible if the event will have one and requiring the applicant to sign an affidavit that they will comply with all state and federal disability access requirements applicable to the event.
- ✓ The "Facility Rental Procedures" for use of a City senior center state that animals are not allowed in the buildings at any time, with the exception of service animals.
- ✓ Limited information was publicly available regarding accessibility of facilities eligible for rental.

## **RECOMMENDATIONS**

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- The City should consider the inclusion of a nondiscrimination clause in their facility rental policy. The inclusion of nondiscrimination language in policies and on forms would help ensure that outside groups and organizations would agree to abide by all applicable local,

state, and federal laws and City policy regarding nondiscriminatory practices during the utilization of City facilities.

- It would be beneficial to persons with disabilities if information on accessible routes and maps, accessible parking locations, restrooms and wayfinding was available for all facilities on the City's website.
- The City should provide the application form and facility use agreement in multiple formats, ensuring at least one is accessible, and offer multiple methods to submit the application. Use policies should be reviewed to ensure they are not discriminatory, such as a policy that would prohibit pets in a facility but does not include a statement allowing service dogs, when appropriate.

## Lease and Joint Use Agreements

Under Title II of the ADA, the City is responsible for providing access to its programs, services and activities in both owned and leased facilities. Leased sites should be accessible and have provisions in the lease to ensure accessibility.

### FINDINGS

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- ✓ Selected joint use and lease agreements were reviewed. Most agreements contained accessibility provisions.
- ✓ A lease agreement between the City of Berkeley (Landlord) and NFS Unlimited, LLC dba Skates on the Bay includes the following clauses:

**5.4 Non-Discrimination.** Tenant covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, national origin or ancestry in the sublease, transfer, use, occupancy, tenure or enjoyment of the Premises, the Facility or any portion thereof, nor shall Tenant, or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, vendees, users or customers in the Premises, the Facility, or any portion thereof. Tenant shall refrain from restricting the use, occupancy, rental or sublease of the Premises, the Facility, or any portion thereof on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, national origin or ancestry of any person. All subleases and contracts made relative to the Premises, the Facility, or any portion thereof, shall contain or be subject to substantially the following nondiscrimination clause:

**A. In subleases:** "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical

condition, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased, nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises, the Facility thereon, or any part thereof, herein leased.”

**B. In contracts:** “There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Premises, the Facility or any portion thereof, nor shall the transferee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises, the Facility thereon, or any part thereof.”

#### **16.29 Non-Discrimination Against Persons With Disabilities.**

A. If Tenant provides any aid, service or benefit to others on the Landlord’s behalf, Tenant shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Tenant shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the Landlord, if applicable.

B. If Tenant is or becomes a “public accommodation” as defined in Title III of the Americans with Disabilities Act of 1990, Tenant shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Tenant. All of Tenant’s activities must be in accordance with these laws, ordinances, codes, and regulations, and Tenant shall be solely responsible for complying therewith.

The lease between the City and NFS Unlimited also included a list of tenant improvements that were to be made during the initial term of the lease and included ADA compliant curb ramps and accessible parking.

- ✓ Nondiscrimination against persons with disabilities terms were also found in the selection of sample lease agreements reviewed.



- ✓ City Municipal Code 7.74.050 states that the City is authorized to acquire, construct and lease facilities as the lessee, however policies and practices to ensure that the City leases accessible space from others were not found.

## **RECOMMENDATIONS**

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- The City should review the accessibility of sites that are and may be leased in the future prior to engaging in a lease or renewal and establish a procedure for a pre-lease inspection.
- When considering a leased space, the ADA Coordinator, or designated staff member, should be trained to conduct or have a designee or consultant conduct a field inspection of the prospective building to assess the building for a general, functional level of accessibility. The ADA Coordinator could utilize an abbreviated checklist to determine general accessibility of facilities that the City is considering a lease. A more comprehensive inspection could be conducted if the initial review appears to be favorable.
- Language in lease agreements should be reviewed to clearly delineate the responsibility for accessibility and if it lies with the lessee or lessor or both.
- A pre-lease inspection process should be implemented for buildings that are not City owned but may be leased by the City.
- Language in lease agreements should be reviewed for ongoing compliance standards.
- Language in lease agreements should be reviewed for use of outdated language such as references to handicap or handicapped. Person or persons with disabilities should be used instead.
- Joint use agreements should outline accessibility provisions.

## **Special Events and Activities**

Special events sponsored by the City are considered a program, service or activity of the City and are required to be accessible in accordance with ADA requirements.

## **FINDINGS**

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- ✓ Select flyers for City special events advertised on the City's website were found to include information about accessibility of the event. An example includes the City of Berkeley's Adopt-a-Spot Volunteer Picnic announcement that stated the event would be held at Strawberry Creek Park and noted that the park is wheelchair accessible.
- ✓ For some special events, including Friday night movies in Berkeley parks, an accommodation statement is included on the announcement:

To request an accommodation, please contact Ginsi Bryant at [gbryant@cityofberkeley.info](mailto:gbryant@cityofberkeley.info) or call or text (510) 926-2585 at least 2 days before the movie date.
- ✓ The Special Event Permits page of the City's website states that event organizers are responsible to ensure their events are accessible and provides numerous recommendations for planning an accessible event.

- ✓ The City's Street Event Permit Application Form requires that applicants provide information to verify that the event will be accessible and not block any existing accessible features of the event location. Applicants are required to sign an affidavit that states the following:

I further certify that I will comply with all State and Federal disability access requirements applicable to the event. Compliance with the City's permit requirements does not exempt the applicant from any additional requirements that may be imposed by State or Federal Laws.

- ✓ City Municipal Code 6.46.070 regarding permits for events at City parks states "Permittees shall ensure that accessibility for persons with disabilities is not impaired by the park event. (Ord. 6579-NS § 2, 2000)."
- ✓ The City's Block Party Permits webpage states that a responsibility of block party organizers is to "ensure that residents on the block can walk or drive up to their property. Keep a clear path on the sidewalk or in the street for pedestrians to pass through. The Americans with Disabilities Act requires a path at least three feet wide." The block party activity permit also includes this requirement in the guidelines.

## **RECOMMENDATIONS**

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- Accessible features and elements for special events and activities should be indicated in publications, brochures and on the website. Accessible features may include accessible parking and restrooms, for example.
- The City's special events policies, procedures and applications should be updated and maintained to include ADA accessibility information and provisions that the event will comply with federal, state and local accessibility requirements for persons with disabilities. ADA accessibility requirements should be included in event applications and procedures clarified for event organizers. For example, information regarding accessible parking, accessible restrooms and accessible emergency communications should be included in the special event application.
- Planning for accessible provisions should include a checklist and training for City staff regarding the ADA requirements for special events.
- A statement of accommodations should be included on the website and on flyers and publications regarding the special event or activity.

## **Contracted Services**

Public entities cannot use contract procurement criteria that discriminate against persons with disabilities (28 CFR § 35.130(b) (5)). Contractors should be held to the same nondiscrimination rules that apply to City employees.

## **FINDINGS**

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- ✓ Sample contract agreements reviewed included requirements for nondiscrimination based on a disability for selected vendors and contractors, such as in the following example:

## 22. NON-DISCRIMINATION

Consultant hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Chapter 13.26 as amended from time to time. In the performance of this Contract, Consultant agrees as follows:

22.1 Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

- ✓ City Municipal Code 13.26 "Discrimination Against Employees by Contractors with The City of Berkeley Prohibited" states the following:

13.26.070 Nondiscrimination provisions of a contract.

Every contract for or on behalf of the City of Berkeley shall contain the following provisions which shall be known as the nondiscrimination provisions of such contract.

In the performance of this contract, the contractor, subcontractor or supplier agrees as follows:

A. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over forty), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

B. The contractor shall permit the City of Berkeley access to records of employment, employment advertisement, application forms, EEO-I forms, affirmative action plans and any other documents which, in the opinion of the City of Berkeley, are necessary to monitor compliance with the nondiscrimination provisions, and will, in addition, fill-out in a timely fashion, forms supplied by the City of Berkeley to monitor these nondiscrimination provisions. (Ord. 5876-NS § 7, 1988)

- ✓ Sample reviewed agreements with City contractors included the following nondiscrimination statements:

Discrimination Against the Disabled. The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157), and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq), and federal regulations issued pursuant thereto.

In the performance of this contract, Contractor agrees to comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Contractor shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations that prohibit discrimination against individuals with disabilities or require that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the City.

- ✓ A Declaration of Compliance with the Americans with Disabilities Act was included in sample reviewed contractor agreements with the City:

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Berkeley requires that all of its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.

The Contractor certifies that it will comply with the Americans with Disabilities Act by:

A. Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor's goods, services and facilities for people with disabilities;

B. Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access;

C. Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration in the nature of the Contractor's program would result;

D. Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost prohibitive;

E. Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities; and

F. If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities.

G. Providing the City of Berkeley Grievance Procedure and Policy form(s) to individuals with disabilities who allege they have been discriminated against based on their disability or denied a requested disability accommodation by the Contractor's staff.

The undersigned authorized representative hereby obligates the Contractor to the above stated conditions under penalty of perjury.

## **RECOMMENDATIONS**

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- The City should continue to monitor use of standard agreements and contracts by all City departments, as well as monitor agreements that are not standardized.
- The City should review terms and conditions of agreements to find potential references to physical handicap and consider revising the wording to "disability" to be more inclusive and to not use outdated language such as "handicap".
- It is recommended that the City consider one or more of these avenues to maintain compliance when contracting for services or when leasing facilities:

- Include ADA/504 compliance requirements in new requests for proposals.
- Review ADA/504 requirements when contracts or leases are negotiated, revised or renewed.
- The City should consider including requirements for the purchasing or licensing of accessible information technology hardware and software when the program or devices will be available for use by the public.

## Building and Construction

Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by persons with disabilities, if the construction was commenced after January 26, 1992 (35.151). Building and construction policies require that the construction of each new facility or part of a facility, or the alteration of existing facilities after January 26, 1992, conforms to the standards designated under the Title II of the ADA regulation. Buildings constructed after January 26, 1992 are considered new buildings and should be compliant with the current accessibility standards and state accessibility standards and requirements at the time of construction.

Existing buildings are defined as those buildings or sites that were constructed prior to 1992 and that have not had any major remodeling or renovation. If an existing building has had major remodeling or renovation, portions of the building would need to be brought up to the new standards. In addition, the path of travel to the building may be “triggered” and require renovation or remodeling to meet the current accessibility standards. A public entity may comply with the requirements for “existing buildings” by making programmatic changes. Full compliance of existing buildings may not be required where a public entity can demonstrate that it is structurally impracticable to meet the requirements.

## **FINDINGS**

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- ✓ The City publishes accessible standards in accordance with state and federal requirements.
- ✓ The City has adopted applicable state accessibility policies, standards and regulations.
- ✓ The City’s website has a Construction Guide for Food Facilities which provides details of the plan check, permitting and inspection process. The guide states that all construction work must conform to local building codes and projects must have approval from the local building and fire authorities prior to construction.
- ✓ The City has a formal process and application for residents to request an accessible on-street parking space nearby to the residence they own or lease, called “Blue Zone” parking spaces. There is no fee required by the applicant to have an approved accessible parking space installed. The spaces are considered public parking and may be used by any vehicle displaying a valid disabled placard or license plate.
- ✓ City Municipal Code 23.322 regarding off-street parking includes the following passages:

### **23.322.040 General Requirements**

H. Required Parking Spaces for Persons with Disabilities. If the number of required off-street parking spaces in a non-residential district is reduced as allowed by this chapter, the number of required parking spaces for persons

with disabilities shall be calculated as if there had been no reduction in required spaces.

### **23.322.070 Off-Street Parking Maximums for Residential Development**

D. Excess Off-Street Parking. 2. To approve an Administrative Use Permit for excess off-street parking, the review authority must make one or both of the following findings:

(a) Trips to the use or uses to be served, and the apparent demand for additional parking, cannot be satisfied by the amount of parking permitted by this section, by transit service which exists or is likely to be provided in the foreseeable future, or by more efficient use of existing on-street and off-street parking available in the area;

(b) The anticipated residents of the proposed project have special needs or require reasonable accommodation that relate to disability, health or safety that require the provision of additional off-street residential parking. (Ord. 7787-NS § 2 (Exh. A), 2021).

- ✓ City Municipal Code 23.302.050 states that bed and breakfast establishments in residential districts shall comply with all applicable disability access requirements.
- ✓ City Municipal Code 13.77 which is "Requirements, Procedures, Restrictions and Mitigations Concerning the Withdrawal of Residential Rental Accommodations from Rent or Lease", states that there are extended notice requirements and increased relocation assistance if the tenant who will be displaced is a person with a disability.
- ✓ City Municipal Code 14.40.100 states that drivers displaying valid disabled placards are permitted certain exemptions from short term parking time limits at designated City parking spots.
- ✓ City Municipal Code 16.10.050 "Design, Installation, and Construction of Video and Telecommunications Systems" states:

All Facilities shall be so located, constructed, installed and maintained so as not to incommode the public use of the road or highway or interrupt navigation of the waters, including access to and from the PROW from private property and access by persons with disabilities.

- ✓ While not specifically referencing compliance with accessibility codes and regulations, the City's website outlines a multi-step review process that involves the City's Building and Safety staff for issuing permits and certificates of occupancy for development projects.

## **RECOMMENDATIONS**

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- Due to the number of noncompliant findings of new construction and remodeling, the City should enhance their oversight of projects to ensure that remodeling and new construction meet applicable accessibility standards.
- The City should consider contracting for an independent review of plans, remodeling efforts and new construction for accessibility requirements for the Americans with Disabilities Act Standards (ADA), the California Building Code and other applicable building standards and regulations to provide additional oversight. It is important and required that the accessibility

barrier removal efforts for new and remodeled buildings, parks and public rights-of-way meet federal and state accessibility codes.

- City project specifications that are issued by the Construction and Development division should include information regarding accessibility requirements.
- As privately developed commercial publications are placed on the City's website, the City may want to consider placing disclaimers on their website that the publications were developed by private sources and not governing authorities. In addition, the site should be monitored to remove any outdated publications that do not reflect current standards.
- The City should review policies, practices and procedures to review remodeling and construction activities to ensure that they meet the applicable accessibility standards.
- Internal policies and procedures focusing on the review of design and construction activities specific to ADA compliance and accessibility compliance should be added.
- The City should ensure that accessibility inspections are conducted as work progresses and is completed.
- Language in contracts with outside vendors should state that work will be performed with all applicable state and federal accessibility standards and regulations.
- The City should ensure that contractors are informed when performing construction activities adjacent to or within the public right-of-way, accessible and safe pedestrian routes must be maintained throughout the project. Information on alternate accessible pedestrian routes and detours should be posted on the City's website, as well as at the site during construction.
- Procedures should be established for alteration projects which affect usability of facilities containing a primary function; ensuring that the path of travel to the altered area, including restrooms, telephones, and drinking fountains serving the altered area, be brought into compliance with ADA standards to the extent of 20% of the cost of the alteration.
- The City should continue to remove barriers identified in the City's ADA/504 self-evaluation and transition plan.
- As barriers are removed, they should be documented in the City's transition plan.
- The City should keep the transition plan current and produce progress reports on a regular basis.

## **Maintenance of Accessible Features**

The ADA requires that accessible features be maintained (35.133). Accessible features and elements may include examples such as maintaining door pressures, elevators, trimming vegetation so that it does not encroach on accessible paths of travel, maintaining clear areas to access display areas, access to brochures, access to posted agendas and replacing damaged or missing signage.

The ADA requires that, to the maximum extent feasible, facilities must be accessible to, and usable by, persons with disabilities. This section recognizes that it is not sufficient to provide features such as accessible routes, elevators, or ramps, if those features are not maintained in a manner that enables persons with disabilities to use them. Inoperable elevators locked accessible doors, or

"accessible" routes that are obstructed by furniture, filing cabinets, plants or displays, for example, are neither "accessible to" nor "usable by" persons with disabilities.

## **FINDINGS**

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- ✓ Although the City did not have formal maintenance policies and procedures in most departments, the City demonstrated a practice of maintaining accessible features in accordance with the work order process. The City offers the community members a method to report an issue to the City through an online service request system. Information can also be provided by phone or through an email.
- ✓ The City of Berkeley issues parking citations to vehicles that do not display a placard that are parked in accessible parking spots to help ensure designated parking is reserved for use by persons with disabilities.
- ✓ City Municipal Code 14.36.130 states that the City places and maintains distinctive blue traffic and curb markings identifying parking spots reserved for persons with disabilities displaying valid disabled placards or license plates.
- ✓ While not specifically addressing maintenance of accessible features, City Municipal Code 2.72.040 states that the functions of the Public Works Department include, but are not limited to:

The construction and maintenance of all streets, alleys, paths, rights-of-way, and courts now open or which hereafter may be opened.

The performance of traffic engineering, including the planning, design, installation and maintenance of traffic signs and markings.

The general maintenance and repair of all public buildings belonging to the City and located within the City limits and such other public properties belonging to the City as may be designated by the City Manager.

The cleaning, maintenance and repair of public buildings, which are in the City Hall area and used by the City for general administrative purposes, and such other buildings owned by the City.

- ✓ The City has a volunteer program called "Adopt a Drain" where volunteers help to keep storm drains free of debris to minimize potential street flooding. In the instructions to volunteers, the City states that volunteers should take care not to block wheelchair ramps when placing the filled bags at the curb for pick up.
- ✓ The City's Proposed Annual Budget for Fiscal Year 2022 states that an accomplishment from FY 2020-2021 included ADA improvements and sidewalk repairs along the Adeline Corridor.
- ✓ The City's Proposed Annual Budget for Fiscal Year 2022 also states that there is \$100,000 in capital improvement funding for ADA improvements at City facilities for each of the next three fiscal years.
- ✓ The City of Berkeley Street Maintenance and Rehabilitation Policy found on the City's website as an attachment to the City Council's January 18, 2022 meeting agenda states that it is the policy of the City of Berkeley to maintain streets in safe, good condition. The policy states



that poorly maintained streets have a disproportionate impact on those with mobility or visual impairments face greater challenges of unequal access and safety.

- ✓ The City of Berkeley Municipal Code 16.04.010 states that property owners are required by law to maintain the sidewalk adjacent to their property "in such condition that it will not endanger persons or property passing thereon and will not interfere with public convenience in the use thereof. Said owner owes a duty to members of the public to keep said sidewalk in a safe condition." The City offers a 50-50 cost share program for property owners where the City will pay for half of the cost to repair the sidewalk.

## **RECOMMENDATIONS**

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- The City should continue to monitor items and elements that are required to be accessible and therefore need to be maintained in an accessible manner.
- The City should continue to interface with other local jurisdictions to coordinate ADA efforts and staff training.
- The City may consider developing internal procedures or policies to maintain and track accessible features which require general maintenance. A few examples include re-stripping of parking, trimming vegetation or items that interfere with sidewalks and paths of travel, and adjusting the push/pull force and closing speeds of door closers.

## **Equally Effective Communication**

Public entities, such as the City of Berkeley, must ensure that applicants, participants, and members of the public with disabilities have communication that is equally effective as that provided to persons without disabilities in accordance with 35.160. The ADA requires that a public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.

A public entity is required to furnish appropriate auxiliary aids and services where necessary to afford qualified persons with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. When determining what types of auxiliary aids and services are necessary, a public entity is required to give primary consideration to the requests of persons with disabilities. Auxiliary aids and services should be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

Effective communication methods may include:

- Auxiliary aids and services
- Qualified sign language interpreter services
- Video remote interpreting (VRI)
- Telecommunications services for the deaf and hard of hearing (TTY/TDD)
- Assistive listening systems
- Alternative formats
  - Recordings
  - Videos

- Accessible fonts and documents
  - Braille
  - Large print

## **FINDINGS**

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- ✓ The City’s webpage describing how to request public information states that the public can access many City records on demand through an online portal. There is a statement on the page that says alternative formats such as audio, braille, large print and electronic text are available upon request from the City’s Disability Services Specialist.
- ✓ The City’s standard Public Records Request Form is available on the City’s website in a fillable PDF format. Contact information for the City lists a mailing address, email address, telephone number, TDD number and fax number to submit a request. Requestors are able to indicate their preferred method to receive the information, such as PDF sent by email, hard copy and in the case of City Council meetings, on a DVD.
- ✓ The City’s online Disaster Preparedness Resource Library states that materials are available in alternative formats such as audio, braille, large print and electronic text upon request from the City’s Disability Services Specialist. On the website, select materials are also available in languages other than English.
- ✓ The Berkeley Police Department Policy Manual includes a section dedicated to communicating with persons with disabilities. The manual states that “it is the policy of the Berkeley Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.”
- ✓ The Special Events Permits page of the City’s website includes responsibilities for the event organizer to ensure their event is accessible. The City includes accessible communications as part of the requirements:

### **Provide accessible communications**

Submit to the City and implement a plan for alternative communication, including arrangements for auxiliary aids and services as needed for effective communication at the event. Auxiliary aids might include:

- large print materials
- sign language interpreters
- assistive listening systems
- TDD (text telephone)
- Braille
- written transcripts

### **Provide information about accommodations in publicity materials**

Include contact information for the public to request accommodations on all advertisements, flyers, and announcements about the proposed event. Use the language below:

- “To request disability accommodations, please call \* (voice), or \* (TTY). At least one week’s notice will ensure availability”.

In addition, all advertisements, flyers and announcements should include:

- Information about accommodations that will be available at the event, particularly the times sign-language interpreters may be scheduled for the event.
- ✓ A sampling of archived videos of public meetings were reviewed and were found to have closed captioning options for the viewer. The following example is from a June 2022 City Council meeting.



- ✓ Posting of TDD/TTY numbers was found on most City publications.

## RECOMMENDATIONS

- The City should maintain the current effective communication policy stating that the City will provide appropriate aids and services leading to effective communication for qualified persons with disabilities so that they can participate equally in the City programs, services, and activities. Methods include, but are not limited to, providing qualified sign language interpreters, documents in Braille, documents in large print and assistive listening devices.
- The City should consider training for staff to assist users of the assistive technology.
- The City should provide staff with information regarding assistive technology that is available.
- Persons with disabilities may not participate in or participate as frequently in City sponsored programs, services or activities if they do not understand what is being communicated. Information on the availability of auxiliary aids and services should be included in departmental policies, procedures and guidelines.
- When equipment is used as part of a public entity's program, activity or service, an assessment should be completed to safeguard that the equipment is usable by persons with

disabilities, particularly persons with hearing, visual and manual impairments. In addition, a public entity should have policies in place to ensure that its equipment is well maintained and in operable working order.

- Training should be provided so that staff are aware of and understand how to arrange for auxiliary aids and services, such as sign language interpreters, material in Braille and assistive listening systems; to support effective communication with persons with disabilities.
- Notices for public input should include information on the availability of interpreter services and other services.
- Sign language interpreters should be provided, as determined through the request for accommodations process, for qualified persons with disabilities or in circumstances where a sign language interpreter is known to be required.
- Interpreters should be provided as determined through a request for accommodations process or in circumstances where an interpreter is known to be required.
- The City must ensure that those persons utilizing a language other than English and are deaf, are also provided interpreter services that specialize in signing for that language.
- The City may consider the use of a video relay interpreter system to augment contracts and arrangements for interpreters.
- When a public entity uses an automated-attendant system, including, but not limited to, voicemail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with persons using auxiliary aids and services, including TTYs and all forms of FCC-approved telecommunications relay systems, including Internet-based relay systems.
- Employees who communicate with the public should become familiar with the use of TDD/TTY communications or relay communications, Assistive Listening Systems for the Deaf and Hard of Hearing or the relay system.
- Assistive listening systems are required in assembly spaces where audible communication is integral to the use of the space. Signs are to be provided informing patrons of the availability of the assistive listening systems.
- The City should post the number of the California Relay when other methods are not available.
- Information regarding assistive listening systems should be readily available.
- Signs should be posted in prominent places at or near the assembly area entrance stating "Assistive-Listening System Available" and include the International Symbol of Access for Hearing Loss.
- The City should provide notice regarding the method and availability for alternate formats.
- The City should provide staff training regarding the requirements for accessible alternate formats, what accessible alternate formats are and how to provide accessible alternate formats. Procedures should be put in place for the development of accessible alternate formats to constituents.

- The City should produce accessible alternate formats for high use areas, such as libraries, where the probability for a request for an alternate format is high. Examples include provision of audiocassettes, CDs, large print, information sent via email, screen readers, Braille and pictograms.
- Online public notices and publications should have a statement of accommodations, which includes who to contact for an accommodation.
- A TTY/TDD and/or Relay number should also be included on City notices, which allow for public input.
- The City should provide information on its website and publications regarding the City's branding policy, if available. The City might consider adding information to the City's branding policy regarding accessible fonts and documents.
- The possibility of a central Citywide department or method to provide Braille and other accessible documents should be assessed to assist with providing accessible alternate formats.
- The City should have an existing contract with one or more firms or organizations to provide accessible documents, such as Braille, in a timely manner.

## Website Accessibility

Websites are required to meet accessibility standards and comply with Web Content Accessibility Guidelines (WCAG 2.0) standards for compliance. Websites for Title II of the ADA public entities such as the City currently required to comply with WCAG 2.0 Level AA.

Persons with disabilities frequently use the internet to access information about the City. Persons who are blind and persons with low vision may employ screen access software that reads the code of a website and then renders it in whatever format is accessible to that person (speech, refreshable braille, etc.). Deaf users rely on captioning of aural (sound or spoken) content. Users with limited manual dexterity or motion use dictation software to give commands instead of mouse and keyboard control.

The World Wide Web Consortium (W3C) sets the main international standards for the World Wide Web and its accessibility. There are three levels of WCAG 2.0 website accessibility recognized by the World Wide Web Consortium (W3C):

1. Level A is the minimum level of conformance with the fewest requirements. A couple of examples of Level A requirements are that all non-text components such as images include an alternative text component and that captions are provided for all prerecorded audio content.
2. Level AA compliance must satisfy all the Level A requirements and additional criteria such as providing captions for all live broadcasted audio content.
3. Level AAA satisfies all Level A and Level AA criteria as well as additional requirements such as providing sign language interpretation for all prerecorded audio content.

An updated version of the guidelines (WCAG 2.1) was published on June 5<sup>th</sup>, 2018. The updates are mainly related to mobile devices, disabilities that affect vision and cognitive function, criteria addressing text spacing, and criteria addressing timeouts and animations from interactions. While

public entities are encouraged to begin applying compliance with WCAG 2.1 success criteria into their website design, it is not yet the required standard.

While Section 508 *directly* applies to federal organizations, its impact is much farther reaching. Section 508 is extended to any company that conducts business with a federal agency, including private contractors, the financial industry, healthcare, many legal organizations, and others, and may also be extended to universities (including private universities) that receive funding through grants.

## **FINDINGS**

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- ✓ The review of the City's website was performed in June 2022 using the SortSite Website Accessibility Testing Software to evaluate the website's HTML content by testing against published website accessibility guidelines. The City of Berkeley's home page, major web pages, links and sub-links were reviewed for accessibility for persons with disabilities. Links that direct users to external sites and web pages were not evaluated.
- ✓ The City's website has a consistent general layout of each page that has menu, link and search box options in the same location on each page in the header.
- ✓ The City's website includes a statement regarding accessibility. The statement would be enhanced by defining the success criteria that is used to evaluate the site's accessibility, and to include accessibility tools that may be available through the web browser.

### **Accessibility**

The City of Berkeley is committed to providing access to our electronic and information technology, including our web pages, for individuals with disabilities in accordance with Section 508 of the Rehabilitation Act.

Section 508 requires us to ensure that City employees with disabilities, and members of the public with disabilities seeking information or services from us, have access to and use of information and data that is comparable to the access and use by City employees, or members of the public who are not individuals with disabilities, unless an undue burden would be imposed on us. To meet this commitment, we strive toward our web pages meeting or exceeding the Section 508 standards.

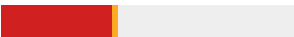
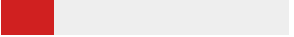
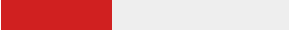
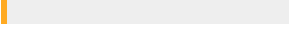
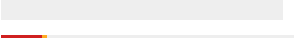
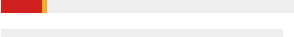

If you have a disability and the format of any materials on our web pages interferes with your ability to access the information, please contact the City's webmaster at [webmanager@cityofberkeley.info](mailto:webmanager@cityofberkeley.info). The webmaster will undertake the proper procedure to ensure your request receives a response. To enable us to respond in a manner most helpful to you, please indicate the nature of the accessibility problem, the web address of the requested material, you preferred format in which you want to receive the material (electronic format (ASCII, etc.), standard print, large print, etc.) and your contact information.

- ✓ As the City of Berkeley cannot be responsible for the content and accessibility of third-party websites, the City states the following disclaimers within their website policy:
  - The City's Privacy Policy that governs any personal, citizen and business information supplied to the City via the City's website states:

- The City's website contains links to other sites. The City of Berkeley is not responsible for the privacy practices or the content of sites other than the City's website.
- The Legal Notice regarding the City of Berkeley Website (CoBWEB) states:
  - Hyperlinks on CoBWEB may lead to resources located on other servers. The presence of these hyperlinks should not be construed as an endorsement of these sites or their content. The City of Berkeley is not responsible for the content of any such external web site.
- ✓ The most prevalent error found during the review was numerous instances of broken links. Broken links frequently occur when the page, document or file has been removed from the site, or possibly renamed, which prevents the link from taking the user to the correct target. A website user would receive an error message when clicking the link.
- ✓ The accessibility evaluation also returned several findings for images that do not contain alternative text descriptions or where the alternative text is a placeholder or file name and not actually a description of the image. This would result in meaningless or confusing image descriptions when read aloud by a screen reader. Images missing alternative text were also found in PDF documents that are posted on the City's website.
- ✓ The accessibility evaluation did not return any errors for search engine issues or usability issues.

### Issue Report

Site quality report for <https://berkeleyca.gov/> tested with WCAG 2.0 Level AA Guidelines.

Category	Results
Overall Quality 	5,830 pages with quality issues
Errors 	2,758 pages with broken links or other errors
Accessibility 	5,809 pages with accessibility problems
Compatibility 	21 pages with browser specific issues
Search 	0 pages with search engine issues
Standards 	1,902 pages have W3C standards issues
Usability 	0 pages with usability issues

Totals 15,546 pages and images checked

### RECOMMENDATIONS

- Correct accessibility errors in the City's website and regularly review the website for compliance, especially in situations where City staff may be adding information to the City's website.
- Develop a website accessibility statement that includes the guidelines for which the level of accessibility is met. Title II entities should use Web Content Accessibility Guidelines (WCAG) 2.0 Level AA as the standard for accessibility.

- Develop procedures to maintain the accessibility of the City’s website and provide training to staff.
- If the accessibility and maintenance of the City’s website is contracted to an outside vendor, contractual language should be included regarding the website accessibility requirements and that the responsibility for the development of and maintenance of an accessible website.

## Social Media

Website accessibility also extends to social media platforms that are used by a Title II entity to deliver information and notices to the public. Content and information created and shared via social media by a Title II entity is required to comply with WCAG 2.0 Level AA requirements. Level AA requirements include all minimum standards of Level A as well.

Although the information shared by the City may be designed by the City to be accessible, the City may not be able to assure that it is accessible when placed in a third-party social media platform.

## FINDINGS

- ✓ The City uses social media as an additional communication tool for its stakeholders. As social media platforms use third-party vendors, the City usually cannot be responsible for content that may not be accessible.
- ✓ The City has a Social Media Policy that includes, but is not limited to, the following guidelines:
  - The following content is not permitted on Social Media sites operated by the City, and shall be removed as soon as possible.
    - Defamatory statements as defined by applicable law;
    - Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
    - Photos or other images that fall in any of the above categories; and
    - Hyperlinks to material that falls in any of the above categories.

## RECOMMENDATIONS

- Maintain the existing Social Media Policy which prohibits content that promotes, fosters or perpetuates discrimination on the basis of a disability.
- Provide the information through more than one platform.
- Avoid using acronyms and abbreviations that would not be understandable if read by a screen reader.
- Post or upload a captioned video instead of relying on automatic captioning tools that may be inaccurate.
- Before linking to content that was created by a third party, test the content for accessibility, such as videos that start automatically, missing alternative text for photos and available captioning. If the content is not fully accessible, but the entity chooses to link the content regardless, a disclaimer should be added that explains the limitations for the linked content to the user.



- Review third-party social media terms, conditions and limitations for accessibility compliance when determining whether to use the platform.

## Acceptable Terminology

Terminology should be in "person first language" such as person with a disability or individual with a disability instead of "disabled person" or the term "handicapped." Other negative terms such as retarded, confined to a wheelchair, crippled and handicapped should not be used.

## FINDINGS

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- ✓ References to "handicap", "handicapped" and "disabled persons" are found in some City documents, publications and Municipal Code. Phrases such as "accessible parking" and "persons with disabilities" should be used.
- ✓ No negative or discriminatory references using the terms "confined to a wheelchair", "retarded" or "crippled" were found in any City documents or publications.

## RECOMMENDATIONS

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- City publications should be reviewed to see if the word "handicapped" is used. The words "individuals with disabilities" or "persons with disabilities" should replace "handicapped." The term "disabled person" should also be avoided. Information regarding acceptable terminology in "people first language" should also be provided to City staff. Publications should be updated as they are reprinted. It is understood that the City does not have control over documents that are generated from other jurisdictions.
- It is recommended that the ADA Coordinator disseminate information or provide training regarding acceptable terminology to be utilized by departments and staff.
- Branding policies or policies regarding document development and publications should include alternate language recommendations that do not use the term "handicapped."

## Training

Ongoing compliance with the ADA/504 can only be achieved if City staff and officials receive ongoing and updated training about the rights of persons with disabilities and the obligations of public employees under the ADA/504. Although training is not required by the ADA/504, training regarding the requirements of the ADA/504 is recommended. Staff that understand the requirements of the ADA and how to assist persons with disabilities are empowered to provide services to all stakeholders in a nondiscriminatory manner.

Ongoing compliance with the ADA is a process that occurs over time using an understanding of the ADA, responsibilities of City employees, appropriate terminology, and specific methods to assist persons with disabilities. A simple and easy to achieve compliance method is understanding and using appropriate terminology that provides information in a positive and nondiscriminatory manner. For example, the use of the term "handicapped" is not acceptable and the term "persons with disabilities" should be used instead. Another example of appropriate terminology is using the description of "person using a wheelchair" and not using the term "wheelchair bound."

Although the focus of the ADA/504 self-evaluation was not on employment, it is important to review employment practices to ensure that they comply with other applicable nondiscrimination requirements, including 504 and the ADA regulation issued by the Equal Employment Opportunity

Commission. It is unlawful to discriminate against a qualified applicant based on disability in any aspect of employment including applications, interviewing, testing, hiring, evaluating, compensation, benefits, promotion, discipline and termination.

## Findings

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- ✓ The City has a record of staff training regarding federal and state accessibility requirements.
- ✓ The City of Berkeley Personnel Rules and Regulations manual includes the following statement of nondiscrimination:

The City of Berkeley does not unlawfully discriminate on the basis of race, color, religion, sex, national origin, ancestry, age, political affiliation, medical condition, disability, veteran status, marital status or sexual orientation. The City makes reasonable accommodations for disabled employees. The City prohibits the harassment of any individual on any of the bases listed above. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, and transfer.

- ✓ The City of Berkeley Police Department Policy Manual includes the following information related to training:

### **332.18 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Personnel and Training Sergeant shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Personnel and Training Sergeant shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

- ✓ The 2021-2024 Memorandum of Understanding between the City of Berkeley and the Public Employees Union states "The City and Union agree that they will not discriminate against employees based on race, creed, color, ethnicity, ancestry, religion, political affiliation, gender, sexual orientation, age, national origin, marital or domestic partner status, gender identity or gender expression, parental status, pregnancy, disability or medical condition , Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law, or protected Union activity."
- ✓ The 2021-2024 Memorandum of Understanding between the City of Berkeley and the Public Employees Union includes a grievance procedure for employees.

- ✓ The City of Berkeley Meals on Wheels Volunteer Application includes the following nondiscrimination notice:

\*NOTE: The above information is required for identification purposes only, and is in no manner used as qualification for employment. City of Berkeley Meals on Wheels is an Equal Opportunity Employer, and does not discriminate on the basis of Sex, Religion, Age, Physical/Mental Impairment or National Origin.

- ✓ The City of Berkeley posts an Equal Employment Opportunity Policy on the Jobs webpage. The policy includes the following nondiscrimination statement:

All personnel employment actions such as recruitment, hiring, placements, transfers, promotions, compensation, benefits, layoffs, returns from layoffs, family care leave, terminations, training, social and recreational programs shall be administered regardless of race, color, national origin, ancestry, religion, age, physical or mental disability or medical condition, sex, gender, gender identity, gender expression, sexual orientation, genetic information, marital status, pregnancy, political affiliation, or veterans' status. No City employee or applicant for employment shall be subjected to unlawful discrimination, retaliation or harassment because of their membership in or their association with any of the above listed statutory protected bases.

- ✓ The City of Berkeley posts a Harassment Prevention Policy on the Jobs webpage. The policy includes the following statement prohibiting harassment:

The City of Berkeley (City) prohibits harassment on the basis of real or perceived race, age (40 years and over), religion, color, national origin, citizenship, ancestry, physical disability, mental disability, medical condition (associated with cancer, a history of cancer, or genetic characteristics), HIV/AIDS status, genetic information, marital status, sexual orientation, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, military and/or veteran status, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence status, political affiliation, and any other classifications protected by state or federal law.

- ✓ Job descriptions posted to the City's Job Opportunities website include both a nondiscrimination notice and a statement of accommodations as shown in the following example:

**Exam Access Accommodation:** In compliance with local, state and federal laws and regulations, the City of Berkeley will employ and promote qualified individuals without regard to disability. The City is committed to making reasonable accommodations in the examination process and in the work environment. Individuals requesting reasonable accommodations in the examination process must do so no later than the final filing date for receipt of applications, otherwise it may not be possible to arrange accommodations for the selection process. Such requests should be addressed to the Human Resources Department | 1-510-981-6800 | hr@cityofberkeley.info |2180

Milvia 1st Floor, Berkeley, CA 94704. Requests can be made via email, phone, or in writing via U.S. mail.

**Alternative Application Formats:** This application material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the ADA Coordinator, 2180 Milvia Street, Berkeley | Phone: 1-(510)-981-6300 | TTY: 1-(510)-981-6347| ADA@cityofberkeley.info and allow 7-10 days for production of the material in an alternative format.

The City of Berkeley is an EEO/ADA Employer.

- ✓ Training for new employees and volunteers with content regarding the ADA was not found.

## **RECOMMENDATIONS**

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- The City should continue to provide ongoing training regarding the ADA/504 for facilities, public rights-of-way and outdoor recreation standards. Suggested training topics should include, but are not limited to:
  - Requirements of the ADA and 504
  - Notice and Identity of the ADA Coordinator
  - Notice and Rights Posted for Persons with Disabilities
  - Acceptable Terminology and Expressions
  - Noncompliance Consequences
  - Accessible vs. Compliant
  - Barriers – Programmatic or Physical
  - Providing Services for Persons with Disabilities
  - Inclusions of Persons with Disabilities
  - Service Animals
  - Leased Sites
  - Special Events and Voting
  - Accessible Locations for Meetings
  - Effective Communication, Auxiliary Aids and Services
  - Construction and Remodeling
  - Maintenance of Accessible Features
  - Community Donations and Construction Projects
  - Grievance Procedures
  - Use of City Facilities by Organizations and Individuals
  - Reasonable Accommodations
  - Statement of Accommodations
  - Alternate and Accessible Formats
  - Accessible Websites
  - Volunteers
  - Accessibility Standards and Regulations (ADA, CBC, PROWAG, MUTCD, Caltrans)
- The City should provide staff training in additional formats other than a classroom session, if needed. Training methodologies could include videos (captioned) that could be viewed at the training or checked out by departments and agencies.
- Handouts and training materials should be prepared, if needed, in alternate accessible formats.

- The ADA Coordinator should continue to provide or coordinate additional ADA/504 training to all management and staff who have regular contact with the public.
- The City should consider adding assurances to applications for volunteers that would include assurances that the applicant will adhere to abide by all applicable state, federal and City policies and procedures.
- The City should consider adding nondiscriminatory practices to Citywide conduct policies for staff and volunteers.
- The City should include information as to the identity, title, address, phone number and email address of the ADA Coordinator to new employee orientation and volunteer information.
- New employees and volunteers should be provided materials and/or training regarding nondiscriminatory practice and the requirements for access to programs, services and activities of the City.
- The City should develop training materials and videos for new employees and volunteers regarding information and requirements of Title I and Title II of the ADA and Section 504. Materials could also be offered on providing accommodations for persons with disabilities.

### **Planning, Budgeting, Implementation and Strategies for Ongoing Compliance**

There is not a specific requirement in the ADA or Section 504 for planning and budgeting for barrier removal. There is a requirement for public entities to incorporate a projected schedule for barrier removal into the transition/barrier removal plan. A City that is budgeting for ADA/504 barrier removal and to improve access to programs, services and activities shows intent to implement the barrier removal/transition plan and to enhance access to programs, services, activities, and facilities by persons with disabilities.

The City is required to provide a projected schedule with estimated dates for barrier removal in the ADA/504 self-evaluation and transition plan. The projected schedule is an estimate or planned date for barrier removal. Projected dates, however, may change due to a variety of factors. Developing an ADA plan and a schedule for implementation and removal of barriers provides clear documentation of the City's ongoing efforts to remove barriers and to provide access to City programs, services, and activities.

Implementation of the recommendations in the self-evaluation and transition plan will continue to require planning, resources, staff training, interdepartmental coordination and collaboration throughout the organizational structure and the public. As the City recognizes that compliance with the ADA is not a "one-time" event and requires strategic planning and an ongoing commitment to provide equal access to its programs, services, and activities to maintain and enhance compliance with the requirements of the ADA.

### **FINDINGS**

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- ✓ City budget documents available on the City's website include line items for ADA improvements including but not limited to:
  - Echo Lake Americans with Disabilities Act (ADA) Improvements - \$705,000 in funding over two fiscal years as part of a \$2.1 million construction project.

- ADA Transition Plan for City facilities, public rights-of-way, parks, programs and services - \$494,000 over several fiscal years.
  - A CIP project for FY 2022 that uses Measure T1 funds for renovations and ADA improvements to the dining hall at Cazadero Camp.
  - A CIP project for FY 2022 for play structure and ADA improvements at Glendale Laloma Park.
- ✓ The City's FY 2022 Proposed Annual Budget notes an accomplishment of a public works project for improvements to the North Berkeley Senior Center to enhance compliance with ADA other building codes.
  - ✓ The City's FY 2022 Proposed Annual Budget includes the following items in a "Citywide Capital Improvement Program by Category & Projects – General Fund" overall chart. A summary of references to ADA expenditures follows:

Program Categories	B/OT	Proposed FY 2022	Planned FY 2023	Planned FY 2024	Total
<b>City Facilities</b>					
ADA Building improvements	B	\$100,000	\$100,000	\$100,000	\$300,000
<b>Parks, Recreation and Waterfront</b>					
Echo Lake ADA	OT	\$150,000	\$-	\$-	\$705,000
Glendale Laloma (5-12 play structure + ADA)	OT	\$150,000	\$-	\$-	\$150,000
<b>Sidewalks</b>					
ADA Curb Ramp Program	B	\$200,000	\$200,000	\$200,000	\$600,000

- ✓ The City of Berkeley 2018-2019 Strategic Plan document found on the City's website includes updating the City's ADA Transition plan as part of the goal to "Champion and demonstrate social and racial equity".
- ✓ City Municipal code 7.88.020 states that a special tax is imposed "solely for the purpose of raising of revenue to provide emergency services and incidental case management for severely physically disabled persons as defined herein." The code states that the imposed tax began on January 1, 1999.
- ✓ The 2021-2022 workplan for the City's Commission on Disability is available on the City's website. The workplan includes, but is not limited to, goals to improve transportation and mobility, public outreach, accessible and affordable housing, emergency preparedness and accessibility in City events.
- ✓ The Capital Projects page of the City's website includes information about multiple projects that include ADA and accessibility upgrades as part of the scopes of work, a sample list of select projects includes:
  - 2020 Citywide Restroom Study
  - Milvia Bikeway Project

- Grove Park Field and Playground Improvements
  - Sidewalk Repair Project
  - Rose Garden Renovations
  - Street Rehabilitation
- ✓ The City of Berkeley Electric Mobility Roadmap 2020 document available on the City’s website states that “The City will support electric mobility options that are accessible to persons with disabilities, both for EV charging as well as electric shared mobility services, and that are geographically distributed to promote access.”
  - ✓ The City of Berkeley’s Complete Streets Policy states that the plan is “a comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel along and across streets for all users, including pedestrians, bicyclists, persons with disabilities, motorists, movers of commercial goods, users and operators of public transportation, emergency vehicles, seniors, children, youth and families.”
  - ✓ The City of Berkeley’s Age Friendly Action Plan identifies the need and availability for age friendly resources to ensure that people of all ages and abilities are able to actively participate in community activities. The plan provides recommendations for topics including, but not limited to, housing, health and community services, transportation and civic participation.
  - ✓ The City’s 2020 Pedestrian Plan document notes that accessibility for persons with disabilities is a high priority in planning, including continuing to install and repair ADA compliant curb ramps, sidewalks and street crossings.

## **RECOMMENDATIONS**

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- The City should continue to maintain an ongoing barrier removal implementation plan and document the City’s progress, initiatives and funds expended.
- In appropriate cases, it is recommended that the City contract for an independent review of plans, remodeling efforts and new construction for accessibility requirements for the Americans with Disabilities Act Standards (ADA) and Title 24 of the California Building Code. It is important and required that the accessibility barrier removal efforts meet federal and state accessibility codes.
- The ADA Coordinator, or designated staff, should be empowered with the authority to make recommendations and monitor the current City of Berkeley ADA/504 Self-evaluation and Transition Plan.
- In addition to the removal of structural barriers, departments should consider budgeting for accessibility items, especially in communication, such as TTY/TDD’s and alternate formats.
- Implementation of the recommendations in the self-evaluation will continue to require planning, resources, staff training, interdepartmental coordination and collaboration throughout the organizational structure and the public.

## Conclusion

The City of Berkeley has demonstrated an ongoing commitment to provide equal access for persons with disabilities to its programs, services and activities to maintain and enhance compliance with the requirements of the Americans with Disabilities Act. The City continues to embrace a concept of full and equal access for all the people it serves. The findings from the updated City of Berkeley ADA/504 Self-evaluation and Transition Plan memorialize the City's compliance efforts.

The City has completed many ADA compliance activities. A summary of findings and recommendations is provided in this section but is not intended to be entirely inclusive of all findings and recommendations contained in the City of Berkeley ADA/504 Self-evaluation and Transition Plan.

The noncompliant findings overall for programmatic areas such as policies, programs, services and activities were not found to have a significant impact for access by persons with disabilities. Some areas, as noted in the ADA self-evaluation and transition plan report should be changed, updated or enhanced to provide a greater level of access by persons with disabilities. Noncompliant findings for physical barriers were found to have the potential to limit access by persons with disabilities.

1. **ADA POLICY STATEMENT:** Although not required, it is recommended that the City develop and distribute a Citywide ADA Compliance Policy Statement that clearly describes the commitment and nondiscriminatory policies and practices of the City regarding recruitment, employment, policies, access to programs, services, events and facilities. The ADA Compliance Policy Statement does not have to be formally adopted but should at least be approved by executive management.
2. **POLICY DEVELOPMENT AND UPDATES:** Although the City is not required to develop a policy for each and every area of access to the City's programs, services and activities, it is general practice for public entities to develop Citywide policies and procedures in selected areas to ensure compliance with the accessibility requirements and standards. Although Citywide ADA primary compliance policies can be developed, it would be beneficial to have individual policies and procedures to fully understand and implement the accessibility requirements. For example, policies regarding service animals, ticket sales for events or other power-driven mobility devices may be countywide or specific to departments and divisions.
3. **ADA COORDINATOR:** The identity and the role of the ADA Coordinator should continue to be published using multiple methodologies to inform staff and members of the public. In addition, training should be provided to City staff. Due to the required role of the ADA Coordinator, it is important that interdepartmental coordination is enhanced to include project planning, funding and documentation of the barriers removed. A process should be developed by the City with departmental input to update the DACTrak accessibility management software program not only to implement the plan, but to document the removal of barriers. It is important that interdepartmental coordination is enhanced to include project planning, funding and documentation of the barriers removed.
4. **PLAN TO REMOVE BARRIERS:** It is important that the transition plan to remove the physical barriers include not only the public rights-of-way, but also include buildings, facilities, parks and recreational sites. Planning, funding and staff resources should include all areas of the transition plan.
5. **TRAINING:** Ongoing and updated training should be provided for City staff and volunteers regarding the responsibilities of the City for ADA compliance, providing accommodations and providing programs, services and activities for persons with disabilities.



6. ESTIMATED DATES FOR BARRIER REMOVAL: Following communication between departments and an analysis of not only currently available funding, but funding that will be needed in the future, the City should continue to update the projected dates of barrier removal in the DACTrak software in order to have “estimated dates” of barrier removal. The ADA/504 self-evaluation and transition plan is a fluid planning document that is prioritized and phased in order to develop and maintain a plan for the removal of barriers to access facilities, programs, services and activities of the City. Projected and estimated dates may change due to accessibility needs, planned projects, projected projects, funding, complaints, claims, litigation and initiatives of the City. A process should be developed by departments to update the DACTrak accessibility management software program.
7. GRIEVANCE PROCEDURES AND FORMS: Grievance or Uniform Compliant Procedures should continue to be made available to members of the public in addition to City staff. Although the Department of Justice uses the term “Grievance”, the procedures and forms can be “Complaint and/or Grievance Procedures”.

Staff should be trained regarding the requirements and methods for members of the public to access grievance procedures and forms. In addition, grievances should be tracked to document the date of the grievance, the action taken by the City (if any) and the resolution of the grievance.

8. STATEMENTS OF ACCOMMODATIONS: Statements of accommodations or modifications should continue to be provided on selected public facing documents such as agendas, meeting announcements, events and activities. It is recommended that the City develop and maintain a statement of accommodations that is consistent and provide procedures and training regarding the inclusion of the “statement of accommodations” on selected public-facing documents so that participants with disabilities that may need an accommodation to participate in the City’s programs, services and activities can request reasonable accommodations.
9. CONSTRUCTION OVERSIGHT: The City should consider a more formalized construction oversight process to include accessibility plan reviews, proposal development for accessibility, construction reviews, post construction reviews and acceptance by the City.
10. STAKEHOLDER INPUT AND OUTREACH: The City should maintain the existing Commission on Disabilities advisory commission to serve as a liaison between stakeholders and the City to provide input and suggestions regarding access by persons with disabilities. Additional activities to enhance outreach and inclusion may include additional pictures of persons with disabilities in publications, information regarding accessibility provisions for City events and programs, accommodations to increase participation and increased participation of persons with disabilities on committees and advisory boards.
11. PLANNING AND BUDGETING: The City should continue to plan and budget for barrier removal of items that may deny access for persons with disabilities. The 2019-2022 City of Berkeley ADA/504 transition plan identifies physical barriers that exist within buildings, parks, recreational facilities and public rights-of-way. A phased plan for barrier removal, projected barrier removal dates and allocated funding will provide for an ongoing, sustainable plan over time.

## **Appendix A – Notices and Postings**

The following text is the Statement of Non-discrimination and ADA Compliance from the City's website:

### **Statement of Non-Discrimination**

People with disabilities are protected from discrimination under a variety of laws, including the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and portions of the California Civil Code. Public programs may not discriminate against people based upon a disability and must offer all services, programs, and activities in ways that allow equal participation. The City of Berkeley does not discriminate on the basis of sex, color, religion, national origin, age, or disability in the programs and activities which it operates. This policy extends to employment by, admission to, and participation in, the programs, services, and activities of the City of Berkeley. State and Federal laws in conjunction with City ordinances and policies ensure the following for individuals interacting with the City of Berkeley:

### **Communication Access**

While utilizing City services, people with hearing, vision, speech, or other disabilities are entitled to "effective communication," such as interpreters, real time captioning, assistive listening devices, Braille, large print, or audio cassette.

### **Facility Access**

The City will remove physical barriers that keep people with disabilities from using its programs. The City has reviewed all of its facilities and has removed many of the barriers. As new facilities are built or existing ones remodeled, the City continues to remove barriers to full participation.

### **Employment Accommodations**

Accommodations for employees with disabilities are handled by each division and the Human Resources Department. City employees who have a disability should consult their supervisor or the Human Resources Department if an accommodation is required for doing the job.

### **Policies, procedures, and practices**

Policies, procedures, and practices must be conducted in a way that avoids discrimination. The Disability Compliance Program reviews City policies and practices, and continues to propose revisions or new procedures to prevent discrimination. The outcome of these changes means better service for everyone.

*The following text is the news item that appeared on the homepage of the City's website announcing that the City was collecting public input into the development of the transition plan.*

**Published:** December 20, 2021      **Last Updated:** January 12, 2022

**Berkeley, California (Monday, December 20, 2021)** - Complete our brief online survey to recommend how to make it easier for people with disabilities to use city facilities, sidewalks, programs, activities, and website.

Give feedback if you have a disability, are a caregiver, or even if you don't currently have a disability.

Your feedback will help guide our citywide plan to prioritize the accessibility of pedestrian safety, reduce liability, and provide information for our city improvements.

This short survey will cover:

- Awareness about who to contact for assistance on accommodation to City facility, service, or event
- Priorities on everything from sidewalks to offices, and website
- Specific concerns or complaints for persons with disabilities
- Highest priorities to improve City of Berkeley

Complete [this online survey](#) by February 18.

If you need a hardcopy of the survey, please contact:

Dominika Bednarska  
(510) 981-6418  
DBednarska@cityofberkeley.info

Bernadette Lopes  
(510) 981-6442  
Blopes@cityofberkeley.info

### **Give feedback on access improvements in Berkeley**

This survey is part of a larger effort by the [Public Works Department](#) to improve accessibility in Berkeley. We will use the results to develop a Transition Plan required by the Americans with Disabilities Act (ADA) to transition local governments to ADA compliance.

Accessibility benefits many pedestrians, including but not limited to people with disabilities, seniors, and parents with strollers and small children. Such improvements encourage the use of public transportation and travel without cars, thus reducing greenhouse gases and other negative impacts of driving.

These efforts build on Berkeley's longstanding commitment to creating a more equitable community and supporting the City's Strategic Plan goals to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

In making services and buildings easier to use for those with disabilities, we improve access for all.

Please share this [survey](#) widely.

### **Links**

- [Accessibility Survey](#)
- [Disability Compliance Program from Public Works Department](#)

The following screen shot is the news article from the City's website announcing the City was holding a public input meeting for participants to join using the Zoom platform.

## BERKELEY NEWS

City Manager's Office



Press Contact: [Matthai Chakko](#). For media inquiries, (510) 981-7008

### LEARN AND GIVE INPUT ON HOW TO IMPROVE ACCESSIBILITY IN BERKELEY

***Attend online meeting on Feb. 9, complete survey by Feb. 18***

**Berkeley, California (Tuesday, February 01, 2022)** - Attend an online meeting to ask questions and give input on our efforts to make it easier for people with disabilities to use city facilities, sidewalks, programs, activities, and website.

The Feb. 9 meeting gives an opportunity to interact with staff and ask questions. Even if you can't attend, you can also use an online survey to weigh in. Give feedback if you have a disability, are a caregiver, or even if you don't currently have a disability.

Your input will help guide our citywide plan - referred to as an "ADA Transition plan" - to prioritize the accessibility of pedestrian safety, reduce liability, and provide information for our city improvements.

#### **Feb. 9 online meeting**

We'll use an online meeting to guide people through our work and the road ahead in a more informal setting.

##### **ADA Transition Plan Public Input Meeting**

Time: Feb 9, 2022 6:00 PM

Zoom: <https://us02web.zoom.us/j/86573536109?pwd=SnhGcElhQVNVZG1LcThqNUI3Z3daZz09>

Passcode: 951915

Meeting ID: 865 7353 6109

Call in: (669) 900-9128

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, or alternative formats, please let our Disability Services Specialist know by Feb. 6:

(510) 981-6400 (V)

(510) 981-6347 (TDD)

[ada@cityofberkeley.info](mailto:ada@cityofberkeley.info)

## **Appendix B – Grievance Policy and Procedures**

This Americans with Disabilities Act Grievance Procedure and Complaint Form is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the Disability Services Specialist and allow 7-10 days for production of the material in an alternative format. Dominika Bednarska - Disability Services Specialist Email: [dbednarska@cityofberkeley.info](mailto:dbednarska@cityofberkeley.info)

Phone: 1-510-981-6418

TTY: 1-510-981-6347

### **PURPOSE**

*The City of Berkeley is committed to ensuring that people with disabilities are able to take part in, and benefit from, the whole range of public programs, services, and activities offered by the City. The City continues to modify its facilities, programs, policies, or practices, as necessary, to ensure such access is provided.*

*Title II of the Americans with Disabilities Act (ADA) requires that public entities adopt and publish grievance procedures to assure the prompt and equitable resolution of complaints. The purpose of this ADA grievance procedure is to resolve as promptly as possible any problems, complaints, or conflicts related to the City's ADA compliance without the need for the complainant to resort to other remedies available under the law.*

### **CONTENTS**

1. Who may file a grievance?
2. When should a grievance be filed?
3. What should the grievance include?
4. Where should I submit my grievance?
5. What if I need assistance filling out my grievance?
6. What happens after I file my grievance?
7. When will I receive a response?
8. Should I be concerned that a city officer or employee might retaliate against me if I complain?
9. What can I do if I am not satisfied with the results of the city's investigation?
10. Attachment 1: List of City Department Heads, office addresses, phone numbers
11. Attachment 2: Grievance Form

***Please note: This procedure applies only to the property, programs, and services of the government of the City of Berkeley. For information or assistance with regard to private property, please contact the City's Chief Building Official at (805)564- 5553.***

### **1. WHO MAY FILE A GRIEVANCE?**

You or your authorized representative may file an ADA grievance if you believe that:

- The City is not in compliance with the physical access requirements of the Americans with Disabilities Act related to its public facilities, land, or rights-of-way, or
- You or a specific class of individuals have been denied access to participate in a City programs, services, or activities on the basis of disability, or
- You or a specific class of individuals have been otherwise subjected to discrimination on the basis of disability by the City of Berkeley, or
- The City has otherwise violated the ADA.

## **2. WHEN SHOULD A GRIEVANCE BE FILED?**

Before filing a grievance, you may seek informal resolution by contacting the Department Head or his/her designee of the affected department within 60 days of the alleged discriminatory action (See list of Department Heads in [Attachment 1](#)). If your informal concern is not resolved within ten (10) days, you have the right to file a formal grievance under this procedure.

Any grievance not resolved by the procedure described in Step 1 above, may be referred to the ADA Coordinator (or his/her designee) by the grievant or a representative of the grievant, or the Department Director, within thirty (30) days of the Department Director's decision. Any such referral shall be in writing identifying the specific complaint, with the desired resolution. Upon request, referrals may be made using alternative formats.

The ADA Coordinator (or his/her designee) shall conduct an investigation of the complaint to determine its validity and issue a written decision 45 days of the formal filing. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The ADA Coordinator (or his/her designee) will maintain the files and records of the City of Berkeley relating to such grievances.

## **3. WHAT SHOULD THE GRIEVANCE INCLUDE?**

You may file your grievance on the attached form ([Attachment 2](#)). Whatever format you choose, your grievance must include the following information:

- a. Your name, address and telephone number. If a representative is filing the grievance on your behalf, his or her name, address and telephone number must also be included.
- b. A description of the offending behavior(s) or action(s) or violation(s).
- c. The date(s), time(s) and location(s) of the incident(s).
- d. If the incident(s) involved a City of Berkeley employee(s), his or her name(s) should be included, if you know it.
- e. If there are any witnesses to the incidents, his or her name(s) should be included, if you know it.
- f. If your grievance is being filed on behalf of another person or a group of people, all of the grievants should be described or identified by name, if possible.
- g. The remedy you desire.
- h. Your signature or the signature of your authorized representative.

The City will make every reasonable effort to ensure that confidentiality is maintained throughout the complaint and investigation process, to the extent consistent with the law, adequate investigation, and appropriate corrective action. This means that the City will share information only on a need-to-know basis.

## **4. WHERE SHOULD I SUBMIT MY GRIEVANCE?**

You may file your grievance with the City's designated ADA Compliance Officer. The ADA Compliance Officer's name, office address and telephone number are:

Dominika Bednarska, Disability Services Specialist  
Public Works Department  
1947 Center Street, 4th Floor  
Berkeley, CA 94704  
[dbednarska@cityofberkeley.info](mailto:dbednarska@cityofberkeley.info)  
1-510-981-6418

You may mail your grievance, fax it, e-mail it, or deliver it in person.

If you believe the ADA Compliance Officer is involved in alleged discrimination, you should submit your grievance to the Assistant City Administrator (See Attachment 1).

#### **5. WHAT IF I NEED ASSISTANCE FILLING OUT MY GRIEVANCE?**

ADA Grievances may be filed by mail, by phone, or by e-mail. Assistance is available from the ADA Coordinator (or his/her designee). You should contact his/her office and request the type of assistance you need. The ADA Grievance Procedure and Complaint Form are available in alternative formats upon request from the ADA Coordinator (or his/her designee). Verbal grievances should be filed with the ADA Coordinator (or his/her designee). This is in compliance with Berkeley Administrative Regulation 1.12, the Communication Access Policy.

#### **6. WHAT HAPPENS AFTER I FILE MY GRIEVANCE?**

After receiving your grievance, the ADA Coordinator, or his/her designee, will investigate. The investigation may include, but may not be limited to, interviews with:

(a) you; (b) the person(s), if any, who allegedly discriminated against you; and (c) any other person the investigator believes to have relevant knowledge concerning your grievance. The investigator will also consider any written evidence that is given to him/ her.

After completing the investigation, the investigator will review the factual information gathered through the investigation to determine whether discrimination has occurred or the ADA has been otherwise violated. The investigator will consider all of the factual information, all the circumstances, and the context in which any alleged incident(s) occurred.

The investigator will then prepare a written report which will include: (1) the results of the investigation; (2) a determination as to whether discrimination occurred or access requirements have been violated; and (3) any appropriate remedy which the City will provide. A copy of the report will be sent to you, and a copy will be sent to both the Department Head and the ADA Coordinator.

#### **7. WHEN WILL I RECEIVE A RESPONSE?**

Absent extenuating circumstances, all grievances will be investigated, and a response issued, within 45 days of receipt of the formal grievance. If a delay is expected, the Department Head or ADA Coordinator, or designee, will notify you in writing of the reason(s) for the delay, and the date by which you will receive a response.

#### **8. SHOULD I BE CONCERNED THAT A CITY OFFICER OR EMPLOYEE MIGHT RETALIATE AGAINST ME IF I COMPLAIN?**

The City will not retaliate against you for filing a grievance and will not knowingly permit retaliation by its officers or employees. The City will take reasonable steps to protect you from retaliation by others as a result of filing a grievance. Please let the ADA Compliance Officer know immediately if you feel you are being retaliated against for filing a grievance.

#### **9. WHAT CAN I DO IF I AM NOT SATISFIED WITH THE RESULTS OF THE CITY'S INVESTIGATION?**

If you are not satisfied with the results of the investigation, you may submit a verbal or written appeal within 20 days of your receipt of the findings. Your appeal should detail the reasons you believe the findings to be in error. You will receive a response within 20 days of the day you submit your appeal.

Your appeal should be directed to the Assistant City Administrator (see contact information in Attachment 1). A written response to the appeal, approved by the City Administrator, will be issued within 20 days.

If you are not satisfied with the results of the appeal, you may file a complaint with the appropriate agency or department of the State or Federal government. Contact the U.S. Department of Justice, the U.S. Department of Education Office for Civil Rights, or the California Department of Justice Civil Rights Division for information about how to file a complaint with these agencies. You may also sue the City in federal court.

Using this grievance procedure is not a prerequisite to pursuing any of your other remedies. However, in the interest of a prompt resolution of alleged discrimination, the City encourages you to use this procedure in addition to any other available remedies you may choose.

## **DEPARTMENT HEAD LIST: ADA GRIEVANCE RESPONSE**

**Mailing Address: 2180 Milvia St, Berkeley, CA 94704**

City Attorney's Office  
Farimah Brown

City Clerk's Office Mark Numanville

City Manager's Office Dee Williams-Ridley

Human Resources  
LaTanya Bellow

Information Technology Savita Chaudhary

Finance  
Henry Oyekanmi

Fire  
David Branning

Library  
Tess Mayer

Parks, Recreation & Waterfront  
Scott Ferris

Police  
Chief Andrew Greenwood

Public Works (Engineering & Transportation)  
Liam Garland

Health, Housing & Community Services  
Lisa Warhuus



<b>CITY OF BERKELEY GRIEVANCE FORM COMPLAINT OF ACCESS VIOLATION OR DISCRIMINATION ON THE BASIS OF DISABILITY</b>		
<p><i>The City will make every reasonable effort to ensure that confidentiality is maintained throughout the complaint and investigation process, to the extent consistent with the law, adequate investigation, and appropriate corrective action. This means that the City will share any sensitive information you provide here only on a need-to-know basis.</i></p>		
<b>Individual identifying access violation or</b>	Name	
	Address	
	Telephone	
<b>Authorized representative individual (if any)</b>	Name	
	Address	
	Telephone	
<p>1. Please describe the City of Berkeley’s alleged violation of access requirements, or discriminatory action, in enough detail so that the nature of your grievance can be clearly understood. Add additional pages if necessary:</p>		
<p>2. Please give the date(s), time(s) and location(s) of the incident(s) or observation(s) you are reporting:</p>		
<p>3. If the incident involves a City of Berkeley employee(s) please provide his or her name(s), if known:</p>		
<p>4. If the grievance involves physical access to a City of Berkeley public facility, land, or right-of-way, please provide the specific address(s) of those locations, if known:</p>		
<p>5. Please give the name(s) and address(es), if known, of any witnesses to the access violation or alleged discrimination:</p>		
<p>6. If this complaint is filed on behalf of a second person, or on behalf of a group of people, please provide the names and addresses of all of the grievants, if possible:</p>		
<p>7. What action do you want taken to correct the alleged access violation or discrimination?</p>		

8. Is there any other information you want the City to know concerning your grievance?	
Signature:	
Date:	Signature of (check one) <input type="checkbox"/> Observer of alleged access violation <input type="checkbox"/> Victim of alleged discrimination <input type="checkbox"/> Authorized representative

Submit this form to the appropriate department liaison, or to the Disability Services Specialist in the Public Works Department. List included as Attachment 1 to the ADA GRIEVANCE PROCEDURE.

**NOTE: This is a Word document version of the online form. The actual submittal must be remitted using the link provided by Caltrans.**

[Submit ADA Transition Plan](#)

or

<https://app.smartsheet.com/b/form/95ed9af387c94e53aab03f0d37754f4a>

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Caltrans Division of Local Assistance (DLA)  
Americans with Disabilities Act (ADA)  
Section 504 of the Rehabilitation Act of 1973 (Section 504)  
Compliance Review Assessment

Per 28 CFR Part 35 - Nondiscrimination on the Basis of Disability in State and Local Government Services:

Caltrans will use this assessment tool to gauge your agency's minimum compliance with subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12134), as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) (Pub. L. 110–325, 122 Stat. 3553 (2008)), which prohibits discrimination on the basis of disability by public entities.

Note: Completion of this form, satisfies your transition plan requirement per 28 CFR 35.150(d)

City/MPO/LPA: [City of Berkeley](#)

Division/Department: [Public Works](#)

Name (Responder): [Thomas Gregory, ADA Program Coordinator](#)

Title: [ADA Program Coordinator](#)

Address: [1947 Center Street, 4<sup>th</sup> Floor,](#)

City: [Berkeley, CA](#)

Zip Code: [94704](#)

Phone Number: [\(510\) 981-6418](#)

email: [tgregory@berkeleyca.gov](mailto:tgregory@berkeleyca.gov)

Is this your first submission of the 2023 ADA Section Compliance Review Assessment? (Yes / No)

If no, when was the date of your previous submission? \_\_\_\_\_

Does your agency employ 50 or more employees (including part-time employees/peak season)? (Yes / No)

If yes, please complete the following questions below.

If no, there are no further questions, please click Submit button.

1. Who is the ADA Coordinator (designee responsible for ADA Program) for your agency ((28 CFR § 35.107(a) & 49 CFR § 27.13(a))?)

- Name: Liam Garland, ADA/504 Coordinator
- Address: 2180 Milvia Street, Berkeley, CA 94704
- Phone: (510) 981-6303
- email: lgarland@berkeleyca.gov
- Website: \_\_\_\_\_

2. Has your agency performed a self-evaluation (28 CFR § 35.105)? (Yes / No)

Date of Evaluation: 9/30/2023 (most recent)

3. Has your Agency provided an opportunity for individuals (with or without disabilities) or organizations to participate in the self-evaluation process by submitting comments? (Yes / No)

If yes, is the feedback tracked? How is it analyzed and stored? Does it follow a standardized SOP? Opportunities were provided using multiple methodologies to collect comprehensive feedback from the public, staff and organizations. Input received was collected and compiled into a single document that was analyzed and tracked. The detailed feedback was summarized to develop and prioritize the ADA/504 Self-evaluation and Transition Plan. The Executive Summary of the ADA/504 Self-evaluation and Transition Plan is submitted as an additional document in item # 20.

4. For at least three years following completion of your self-evaluation has your agency maintained a file for public inspection: (Yes / No)

Provide location and / or link: Available by contacting the ADA/504 Coordinator, Liam Garland, or the ADA Program Coordinator, Thomas Gregory

5. For at least three years following completion of your self-evaluation has your agency made available for public inspection the following?

5a. A list of interested people consulted? (Yes / No)

Provide location and / or link: Three surveys were created and made available by links to the general public, organizations-provide services to people with disabilities and made available on the City website and advertised through a news item on the City's homepage and through social media, as well as flyers placed at City facilities and an announcement in the City's electronic newsletter. The City offered a public input meeting using the Zoom teleconferencing platform. A link was also sent internally for staff to provide feedback.

5b. A description of areas examined and any problems identified? (Yes / No)

Provide a list, link or summary of the data: The City's Executive Summary of the ADA/504 Self-evaluation and Transition Plan describes the noncompliant findings and barriers in policies, programs, services and activities. The City's ADA Transition Plan that reports structural/architectural barriers contained in the City's Transition Plan are included as an upload in question #20.

5c. A description of any modifications made? (Yes / No)

If yes, it is tracked? Provide list, link, etc. [The City's modifications in policies, procedures, programmatic access and removal of physical barriers are tracked and updated on a regular basis. Reports are included as an upload in question #20.](#)

6. Has your agency designated at least one employee to coordinate efforts to comply with and carry out responsibilities under the ADA & Section 504, including undertaking investigation of any complaint(s) communicated to your agency alleging noncompliance with requirements?

- Yes (The ADA/504 Coordinator and the ADA/504 ADA Program Coordinator)

7. Does your agency have an ADA/Section 504 complaint/grievance procedure process? (Yes / No)

8. Is the complaint/grievance procedure published? (Yes / No)

8a. If yes, please provide the information in an attachment and provide any associated online links below:

Website: <https://berkeleyca.gov/your-government/our-work/disability-compliance-program>

8b. Provide the name, office address, and telephone number of the employee or employees designated to receive complaints/grievances below:

Name: [Thomas Gregory, ADA Program Coordinator](#)

Office: [1947 Center Street, 4<sup>th</sup> Floor, Berkeley, CA 94704](#)

email: [tgregory@berkeleyca.gov](mailto:tgregory@berkeleyca.gov)

Phone #: [\(510\) 981-6418](#)

9. Does your agency have an ADA/Section 504 Policy Statement? (Yes / No)

Provide location and/or link: [The policy statement is included as an upload to question #20](#)

9a. Is the policy signed by the head of the agency? (Yes / No)

10. Does your agency have an ADA Transition Plan setting forth the steps necessary to complete such changes and achieve compliance? (Yes / No)

Date of Transition Plan: [Updated 9/30/2023](#)

Provide location and/or link: [The City's ADA Transition Plan reports are included as an upload in question #20.](#)

11. Has your agency made the transition plan available for public inspection? (Yes / No)

12. Does the agency's Transition Plan include a schedule for providing or upgrading curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas? (Yes / No)

Provide location and/or link for schedule and/or proposed budget: [The City's ADA Transition Plan reports that include plans for remediating or installing curb ramps and other areas in the pedestrian access route are included as an upload in question #20.](#)

13. Does the Transition Plan identify obstacles in the Agency facilities that limit the accessibility of its programs or activities to individuals with disabilities? (Yes / No)

14. Does the Transition Plan describe in detail the methods that will be used to make the facilities accessible? (Yes / No)

15. Does the Transition Plan specify the schedule for taking the steps necessary to achieve compliance with 28 CFR part 35 and if the time period of the transition plan is longer than one year, has the agency identified steps to take during each year of the transition period in an effort to meet full compliance? (Yes / No)

15a. How many years does the schedule span? 25

16. Does your Transition Plan indicate the official responsible for implementation of the plan? (Yes / No)

Name: Thomas Gregory

Title: ADA Program Coordinator

Address: 1947 Center Street, 4<sup>th</sup> Floor, Berkeley, CA 94704

Phone: (510) 981-6418

email: tgregory@berkeleyca.gov

17. Has your agency established a budget for the period of the Transition Plan schedule? (Yes / No)

17a. Please provide the total budget for the schedule span: Budget is established biannually; the next budget approval for FY 2025 & 2026 will take place in June 2024. The estimates provided in the recently completed ADA Transition Report will establish a basis for a funding request for ADA Capital Improvements that Public Works will present to City Council to fund these improvements over a 25-year period...staff will be requesting an annual expenditure of \$1.9m/year for a total of \$47.5m over the course of the 25-year plan.

18. Has the agency established a system for periodic review and updating the self-evaluation? (Yes / No)

18a. When is the date of the next proposed update? October 2024

19. What accessibility standard does the agency use to build new facilities and alter existing facilities?

- PROWAG
- ADAAG
- DFAS
- Other PROWAG, ADA, Title 24 of the CBC, Caltrans standards, CAMUTCD

20. Please attach additional documentation to support the transition plan:

Attach Here: (upload DACTrak Excel reports, ADA/504 policy statement and ADA Self-evaluation and Transition Plan Executive Summary PDF), ADA/504 2023 Caltrans Corrective Action Plan

21. Does your agency have any ADA training needs that Caltrans can assist with? (Yes / No)

If yes, describe: Caltrans regulations and updates

22. Provide any additional comments here: The City of Berkely is actively implementing its ADA/504 Self-evaluation and Transition Plan as indicated by documents noted in Question # 20.

\_\_\_\_\_

## **AMERICANS WITH DISABILITIES ACT AND SECTION 504 POLICY STATEMENT**

### **CITY OF BERKELEY**

#### **Americans with Disabilities Act (ADA)/Section 504 Coordinator (504)**

The designated ADA/504 Coordinator for the City of Berkeley (City) is Liam Garland, ADA/504 Coordinator, City of Berkeley, 2180 Milvia Street, Berkeley, CA 94704, (510) 981-6303, [lgarland@berkeleyca.gov](mailto:lgarland@berkeleyca.gov).

#### **City ADA/504 Policy**

The City complies with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (504). The City is committed to ensuring that people with disabilities are able to take part in, and benefit from, participation of public programs, services, and activities offered the City. The City continues to modify its facilities, programs, policies, or practices, as necessary, to ensure such access is provided.

#### **Nondiscrimatory Operations**

The City is committed to ensuring that persons with disabilities are provided the opportunity to participate in programs, services, activities and events. The City provides opportunities for participation in the same manner as those of nondisabled persons and in fully integrated settings. The City shall make a good faith effort to identify and remove those barriers which prevent persons with disabilities from realizing the same opportunity to participate in programs, services, activities and events.

#### **Public Notice of the ADA and Section 504**

In addition to the City's ADA/504 Policy Statement, the City provides public notice of the rights afforded in accordance with the ADA and Section 504. The City does not discriminate on the basis of disability. Program applicants, participants, the public, employees, job applicants, and others are entitled to participate in and benefit from programs, activities, services and events, without regard to disability.

#### **ADA/504 Grievance Procedure**

The City has a grievance procedure to comply with the requirements of the ADA and Section 504. The grievance procedure may be used by any individual who wishes to file a complaint alleging discrimination on the basis of disability in employment practices and policies regarding the provision of programs, services and activities of the City. A complaint should be submitted to the City's ADA/504 Coordinator in writing or using a documentable format accessible to the complainant.

#### **Reasonable Modifications Policy**

The City will make reasonable modifications to policies and programs to ensure that persons with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. The City shall make reasonable modifications to policies and procedures necessary to accommodate the needs of a person with a disability, unless it can be demonstrated that the accommodation imposes undue burden or alteration of the program, service or activity. The ADA does not require the City to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

#### **Assurance Regarding Surcharges**

No person or persons will be charged a fee for the provisions of reasonable accommodations or modifications, auxiliary aids and services, or other cost related to the participation of a person with a disability.



**Integrated Assurance**

Persons with disabilities will not be required to participate in separate programs. Services will not be provided differently unless the potential for removal of architectural barriers or use of assistive devices and equipment are inadequate or inappropriate to the needs of the individual. In all cases, the affected individuals or representatives when appropriate will be involved in the consideration and decision-making process.

**Effective Communication Policy**

The City will provide documents, publications, and materials available to persons with disabilities who need them in alternate formats upon request to the City's ADA/504 Coordinator.

The City will generally, upon request, provide appropriate aids and services leading to effective communication and facilitate access for qualified persons with disabilities to the city's programs, services, and activities.

**Interpreter Services Policy**

The City will attempt to provide interpretive services upon request to any person needing such services in order to participate in City programs, services and activities.

**Employment**

The City does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U. S. Equal Employment Opportunity Commission under Title I of the ADA.

**Complaints**

Complaints that a City program, service, or activity or facility is not accessible to persons with disabilities should be directed to the ADA/504 Coordinator.