

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Chris Burton  
Nanci Klein  
Matt Loesch  
Sarah Zárate

**SUBJECT: DISABILITY ACCESS  
IMPROVEMENT GRANT  
PROGRAM**

**DATE:** August 29, 2023

Approved



Date

8/30/23

## INFORMATION

Small businesses in San José continue to struggle with disability access law compliance, and as a result, are often the subject of lawsuits under the Americans with Disabilities Act (ADA)<sup>1</sup>. Some of these lawsuits lead to business closures, particularly if businesses do not have the funds to cover legal costs and necessary improvements. Both federal law (ADA) and state laws (Unruh Civil Rights Act and California Disabled Persons Act) require businesses to make their facilities accessible to people with disabilities.

Beginning September 2023, the Department of Planning, Building, and Code Enforcement will offer grants up to \$25,000 as a pilot program to qualifying small businesses and non-residential property owners to assist with their ongoing responsibility of making their business or property accessible to people with disabilities. The City values disability inclusion, and with this program, aims to balance the needs of people with disabilities and support for small businesses as they contribute to the vitality of our neighborhoods.

The grant will cover the following:

- Design services for ADA barrier removal;
- Construction and labor costs to remove ADA barriers;
- Purchase and installation of accessible furniture, fixtures, and/or equipment;
- Certified Access Specialist (CAsp) inspection reports that provide recommendations for accessibility remediations but may not require City permits; and
- Final CAsp inspections after remediation to ensure compliance with accessibility laws.

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<sup>1</sup> For data and information, see California Commission on Disability Access Reports to Legislature: <https://www.dgs.ca.gov/CCDA/Resources/Page-Content/CCDA-Resources-List-Folder/CCDA-Annual-Reports-to-Legislature->.

This new grant program provides a second phase of funding to the existing Disability Access Improvement Grant Program, facilitated by the Department of Planning, Business, and Code Enforcement's Small Business Allies, and requires coordination with the Office of Equality Assurance to ensure prevailing wage compliance in funded construction and labor projects. In addition, grants will be distributed through the Office of Economic Development and Cultural Affairs.

The current grant program (Phase 1) provides up to \$8,000 of credit to qualifying small businesses and non-residential property owners to:

- Hire a private CASp inspector to prepare a CASp inspection report; and
- Cover City permit and inspection fees related to corrective accessibility improvements at existing buildings and sites, as identified in the CASp inspection report.

The new tier of funding (Phase 2) responds to City-sponsored state legislation, Assembly Bill 2164 (Lee), passed in 2022, that expands the purpose and use of funds collected through the state-mandated program known as the Disability Access Education Revolving Fund. Per previous legislation, a percentage of the funds collected is used to support CASp training and certification for the City's building staff, as well as ADA compliance facilitation for small businesses. The City's building staff conduct plan reviews — for either renovations or new construction — and work to ensure compliance with the accessibility requirements in the California Building Standards Code. Their work helps prevent accessibility violations and ensures that people with disabilities have equal access to public places. Funding for this purpose is included in the Certified Access Specialist Program – ADA Compliance allocation. With the passage of Assembly Bill 2164, monies collected may now be used to provide financial assistance to small business owners for accessibility-related renovation and construction. Additionally, Assembly Bill 2164 extends the collection of the funds indefinitely and requires the City to include information regarding financial assistance provided to small businesses in its annual report to the Division of the State Architect.

The 2023-2024 Adopted Operating Budget includes \$266,198 for the Certified Access Specialist Program – ADA Compliance in the General Fund. City Administration will allocate up to \$200,000 for the Phase 2 grant pilot program and \$40,000 for Phase 1 grants. A reconciliation of the revenues and expenditures for the Disability Access Improvement Grant Program will be completed and any funds remaining from 2022-2023 will be carried forward into 2023-2024.

Outreach to businesses regarding the Disability Access Improvement Grant Program will continue in multiple languages through the Office of Economic Development and Cultural Affairs and the Department of Planning, Business, and Code Enforcement. In addition, with the recent passage of Assembly Bill 748 (Roth), beginning January 1, 2024, the City will be required to provide a statement to all owners who are either applying for or renewing their business license tax certification about their legal obligations under state and federal disability access laws, and information about how to obtain a CASp inspection. Simultaneously, the City will provide information about the available grant program.

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Overall, Phase 1 and Phase 2 grants are designed to assist small businesses, encourage accessibility compliance with federal and state laws and the California Building Code, and ensure an inclusive, barrier-free environment for all. Progress and lessons learned from the pilot grant program will be included in a scheduled Disability Services and Community Engagement update to the City Council's Community and Economic Development Committee in May 2024.

## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

/s/

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