

## RESOLUTION NO. 80633

### A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT TRANSITION PLAN UPDATE FOR SIDEWALKS

**WHEREAS**, enacted in 1990, the Americans with Disabilities Act (“ADA”) outlines comprehensive rights to persons with disabilities; and

**WHEREAS**, the ADA requires cities to maintain "program accessibility" for persons with disabilities which could include a variety of programs, activities, and services; and

**WHEREAS**, the term “program accessibility” for the purpose of this Resolution refers to the ADA Transition Plan for ADA curb ramps, which provide access to sidewalks to all users; and

**WHEREAS**, in 2010, the City of San José (“City”) Council approved an update to Sections 9 and 10 of the City’s ADA Transition Plan for Sidewalks to reflect the most current understanding of the ADA ramp inventory in the City; and

**WHEREAS**, in 2014, the Civil Rights Education and Enforcement Center (“CREEC”) representing Plaintiff, Artie Lashbrook, notified the City of its intent to pursue legal action to ensure Citywide ADA accessibility; and

**WHEREAS**, in 2016, the City and CREEC entered into an interim settlement agreement that included a requirement for the City to re-assess all ADA ramp locations; and

**WHEREAS**, in 2020, the City and CREEC agreed to a class action settlement, the terms of which were set forth in a Consent Decree to include a provision requiring amending the City’s ADA Transition Plan Sections 9 and 10; and

**WHEREAS**, in compliance with the 2016 interim settlement agreement, the City entered into a consultant agreement in 2017 to re-assess all ADA ramp locations throughout the City to determine the following: 1) where ADA ramps were present and fully compliant with the ADA and California Building Code; 2) where ADA ramps were present but non-compliant with the ADA and CBC; and 3) where ADA ramps should be present but were missing; and

**WHEREAS**, Section 9 of the ADA Transition Plan describes the requirement to conduct an inventory of all curb ramp locations in the City (“Exhibit A”); and

**WHEREAS**, Section 10 of the ADA Transition Plan outlines the methods used to prioritize ADA curb ramp construction and upgrades (“Exhibit B”); and

**WHEREAS**, staff recommends that the City Council approve the amendment to the ADA Transition Plan Update for Sidewalks to formalize prioritization of ADA ramp requests, establish a 2038 target date for citywide remediation of ADA ramps, and ensure the City’s compliance with state and federal laws as it relates to ADA curb ramps as referenced in the Appendices (“Exhibit C”);

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The amendment to the Americans with Disabilities Act Transition Plan Update for Sidewalks, as described in the Staff Memorandum dated July 29, 2022, is hereby approved.

ADOPTED this 9<sup>TH</sup> day of August, 2022, by the following vote:

AYES: ARENAS, CARRASCO, COHEN, DAVIS, ESPARZA,  
FOLEY, JONES, JIMENEZ, MAHAN, PERALEZ,  
LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



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SAM LICCARDO  
Mayor

ATTEST:



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TONI J. TABER, CMC  
City Clerk