



CITY COUNCIL STAFF REPORT



October 3, 2023

ITEM TITLE

Agreement: Approve an Agreement with Disability Access Consultants, LLC for Americans with Disabilities Act Self-Evaluation and Transition Plan Update Services

Report Number: 23-0269

Location: No specific geographic location

Department: City Manager

Environmental Notice: This activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act ("CEQA") State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Adopt a resolution approving an agreement with Disability Access Consultants, LLC, for Americans with Disabilities Act Self-Evaluation and Transition Plan Update Services.

SUMMARY

The Americans with Disabilities Act requires local government entities to perform a self-evaluation of programs, services, activities, policies, practices, procedures, and facilities and identify barriers to access that are inconsistent with requirements of the act. If structure changes to facilities are required to achieve program accessibility, a transition plan is also required. The City adopted its initial self-evaluation and transition plans in 1994 and has not formally updated either document since that time. Following a public procurement process, staff recommends entering into an agreement with Disability Access Consultants, LLC, to prepare a new self-evaluation and update the City's existing transition plan.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with CEQA and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (“ADA” or the “Act”) was passed by the Congress in July 1990 and signed into law in July 1991. The ADA expanded the scope of the Civil Rights Act of 1963 to include individuals with disabilities as a protected class.

The Department of Justice (“DOJ”) added a new [Part 35](#) to Title 28 of the Code of Federal Regulations (“CFR”) to implement subtitle A of Title II of the Act. Section 35.150 of 28 CFR Part 35 mandates that local government entities operate each service, program, or activity, when viewed in its entirety, in a manner which makes it readily accessible and usable by individuals with disabilities. All new construction and alterations to existing facilities are mandated to comply with accessibility specifications by both Section 35.151 of Title II and state law.

The ADA requires local government entities to perform a self-evaluation of programs, services, and activities; facilities; and current policies, practices, and procedures. The self-evaluation identifies barriers to access that are inconsistent with requirements of Title II of the Act. All public entities were required to complete a self-evaluation by January 26, 1993. The City completed and adopted the required self-evaluation plan in June of 1994 via Resolution No. 17533. While DOJ has not established an independent requirement for an annual self-evaluation plan, state and local governments are urged to establish procedures for ongoing assessment of their compliance with the ADA’s barrier removal requirements. The City has not updated its self-evaluation plan since 1994.

CFR Section [35.150\(d\)\(1\)](#) provides that if structural changes to facilities will be undertaken to achieve program accessibility, the public entity shall develop “...a transition plan setting forth the steps necessary to complete such changes.” The Act further provides that if the “...public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing 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.”

The transition plan is required to, at minimum:

1. identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
2. describe in detail the methods that will be used to make the facilities accessible;
3. specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
4. indicate the official responsible for implementation of the plan.

Public entities with fifty or more employs were required to complete a transition plan by June 26, 1992. The City completed and adopted the required transition plan in June of 1994 via Resolution No. 17533. Since the

1994 approval of the transition plan, the City has annually updated its curb ramp program, but a formal update of the transition plan has not been undertaken.

Procurement

In March of this year, the City posted request for proposals (“RFP”) P18-2023 to Planet Bids, seeking competitive proposals from qualified professional firms to prepare a comprehensive ADA self-evaluation (the “Self-Evaluation”) and update the City’s existing transition plan for City services, programs, and activities, including, but not limited to buildings, parks, parking lots, streets, intersections, and sidewalks (the “Transition Plan”)

The City received three responses to RFP P18-2023. Each proposal was reviewed for qualifications and evaluated by a selection committee, consisting of the City’s ADA Coordinator, City Engineer, and Director of Public Works. All three respondents (Bureau Veritas, SZS Engineering, and Disability Access Consultants) were invited to interview. The selection committee then evaluated the proposals based on the following criteria:

1. Understanding – evaluation of respondent’s understanding of the purpose of the procurement.
2. Qualifications – evaluation of respondent’s demonstrated qualifications to provide the scope of services.
3. References – evaluation of respondent’s demonstrated ability to undertake the scope of work and produce the required outcome in a timely manner.
4. Proposed Cost – evaluation of the fee proposal, including both one-time and ongoing costs.

Based upon the above evaluation process, staff recommends entering into an agreement with Disability Access Consultants, LLC (“DAC”), with a term through June 30, 2026 (Attachment 1). DAC has extensive experience in the evaluation of program and facility accessibility, including conducting more than 28,000 building inspections, surveying thousands of parks and playgrounds, inspecting over 30,000 miles of public rights-of-way, and performing hundreds of programmatic reviews and self-evaluations. Recent engagements include the Cities of San Marcos, Oceanside, Murrieta, El Centro, La Mesa, Santee, Carlsbad, Lake Elsinore, Lemon Grove, Anaheim, and Fullerton. The complete proposal received from DAC is provided as Attachment 2 to this item.

The negotiated fee schedule, by deliverable, is provided in Table 1 below.

Table 1 – Fee Schedule

Task No.	Deliverable	Amount
Base Scope		
1	Project Management and Coordination	\$16,480
2	City Facility Surveys (Buildings & Misc.)	\$159,880
3	Parks & Open Space Surveys	\$98,180
4	Evaluate Pedestrian Connectivity Plan & Accessibility Survey Data	\$6,960
5	Public Input & Outreach	\$3,840
6	City Programs & Services Survey	\$4,320
7	City Communication & Webpages Survey	\$4,320
8	Development of Comprehensive ADA Self-Evaluation & Transition Plan, Presentation to City Staff, Finalize & Present Plan to City Council	\$11,280
Subtotal		\$305,260

Task No.	Deliverable	Amount
Optional Tasks		
9	Public right-of-way and sidewalk inspections	\$600 / linear foot
10	Optional mapping services	Time and materials
Not-to-Exceed Amount		\$850,000

The base scope is expected to take twelve months to complete. A total contract period through June 30, 2026 is proposed to allow for optional public right-of-way and sidewalk inspections, the extent of which will be determined as part of the base scope.

American Rescue Plan Act of 2021 ("ARPA") Revenue Recovery funds have been programmed for this purpose.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Councilmember, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

The base scope of services will be delivered at a cost of \$305,260. This amount does not include inspection of the public right-of-way or sidewalks, the extent of which will be determined based on review of existing technical studies. In order to ensure sufficient funding for a worst-case scenario of inspecting all City sidewalks and public rights-of-way, an additional \$500,000 in authorization is recommended. Certain optional mapping services may also be requested, which would be delivered on a time and materials basis. A total not-to-exceed amount of \$850,000 has been negotiated and is recommended for Council approval.

On July 25, 2023, City Council approved Resolution No. 2023-110 appropriating \$1.1 million for new project CRF0026 (ADA Transition Plan Update) in the American Rescue Plan Act 2021 Fund, within the ARPA Revenue Recovery expenditure category for this purpose in the current fiscal year.

ONGOING FISCAL IMPACT

If the optional sidewalk inspection services are required, contract activities may continue through June 30, 2026. All funding required for the entire scope of services has been programmed and appropriated for this purpose in the current fiscal year. No future year funding is anticipated.

ATTACHMENTS

1. Disability Access Consultants Two-Party Agreement
2. Disability Access Consultants Response to RFP P18-2023

Staff Contact: Tiffany Allen, Assistant City Manager