

City of San Diego Accessibility Advisory Board (AAB)

ADA Budget Concerns

May 2020

FY 21 Budget Request

The Accessibility Advisory Board (AAB) is charged with Advising the Mayor and Council on Policy Matters Related to Accessibility and the Federal Americans with Disabilities Act (ADA). The City of San Diego must have a more robust ADA compliance effort, in order to comply with State and Federal mandates. We strongly urge your support for a revision to the FY 21 proposed budget as follows:

- **Restore 2 positions to the Office of ADA Compliance & Accessibility (ADACA) for a total of 5 full time positions**
- **The Office of ADA Compliance & Accessibility should report directly to the Mayor's Office**
- **Consistent funding needs to be allocated and placed with the Office of ADACA in order to efficiently track and reduce the unfunded backlog of federally mandated ADA projects.**
 - **Budget for the unfunded backlog of ADA Transition Plan projects of \$35 million**
 - **Budget for the unfunded backlog of ADA Complaint projects of \$31 million**
- **Prepare for Tourism to Rebound by Making San Diego "America's Finest Accessible City", where "ALL Are Welcome"**

Office of ADA Compliance and Accessibility

What does this office do?

- Develop, update and implement City ADA policies to ensure that all of the city's programs, services and activities are accessible to and usable by people with disabilities as required by federal law
- Compile and manage ADA complaints from the public as required by federal law
- Manage the City's ADA Self Evaluation and Transition Plan as required by federal law
- Identify and assess ADA barriers at existing City facilities and in the public right of way, create and request funding for projects to eliminate barriers
- Coordinate with CIP project teams to avoid ADA deficiencies in new construction projects
- Compile and monitor an ADA unfunded needs list
- Provide technical assistance and ADA advice to other City departments
- Provide administrative support to the Accessibility Advisory Board
- Provide ADA training via New Employee Orientations and New Supervisor's Academy
- Network with other agencies regarding ADA issues
- Outreach and partner with area non-profits who work with the local disabled community

ADA Compliance & Accessibility Staffing

The City's Office of ADA Compliance and Accessibility (ADACA) recently had a staff of 5. The current budget proposal is requesting that be cut down to only 3 FTE. Here are some of the functions for this team:

- 1 ADA Coordinator/Executive Director
- 1 Project Officer II – maintains the federally mandated transition plan and complaint lists. Works with other departments on ADA projects as funding becomes available. Certified access specialist.
- 1 Project Assistant – Assists the Project Officer II & works with other departments on completing ADA complaint projects as funding becomes available.
- *1 Associate Budget Analyst – This position was moved, but was still supporting ADACA, until this person retired in January 2020.
- *1 Word Processing Operator- Proposed to be cut and given to another department

*These 2 positions have had the responsibility to answer all calls from the public for the Office of ADACA. They perform the federally mandated function of recording, compiling and tracking ADA complaints. They also provide administrative support for the Office, as well as for the Accessibility Advisory Board.

The office of ADACA carries out essential functions required by federal mandates (see next page). Their work benefits all citizens, especially those with disabilities. ADA issues, complaints, and lawsuits have increased in recent years. The Office of ADACA needs more staff, not less.

About the Americans with Disabilities Act Title II

Title II of the ADA prohibits discrimination on the basis of disability in all *services, programs, and activities* provided or made available by local or state governments and their affiliate agencies.

ADA Title II mandates that all city, county and state agencies do the following:

- Conduct a self-evaluation of all programs, services and activities they offer
- Create a Transition Plan by July 1992, with barriers removed by July 1995, revised as needed to continually move toward 100% compliance
- Designate an ADA Coordinator and establish grievance procedures for ADA complaints, monitor the self evaluation and transition plan
- New construction must be 100% ADA compliant

ADACA Project Budget

Currently, there is no budget listed specifically for ADA Transition Plan or ADA Complaint Projects. Several years ago, there was a dedicated budget for these federally mandated ADA projects. This funding was decentralized, and each department was asked to provide funds for their own ADA transition plan and complaint projects. This has not been an effective approach and is difficult to monitor and track. Here is some data to reflect the needs:

- The unfunded backlog of ADA Transition Plan projects is approximately \$35 million
 - Consider a 5-year plan to allocate \$7 million to address the unfunded backlog of these projects
- The unfunded backlog of ADA Complaint projects is approximately \$31 million with some dating back to 2008
 - Consider a 5-year plan to allocate \$6.2 million to address the unfunded backlog of these projects
- In order to facilitate reasonable progress and tracking ability, funds should be allocated specifically for these ADA projects to be monitored by the Office of ADACA.

What happens when the City's ADA program is weak?

Recent Lawsuits

- Schutza and Karczewski v. COSD, Air California Adventure, Inc., dba Torrey Pines Gliderport: Torrey Pines Gliderport; issues - parking, paths of travel, snack/concession area, and picnic tables; no financial liability for the City - indemnified by ACA, Inc
- Robertson v. COSD: location - La Jolla Children's Pool; issue - accessibility of the beach/no ramp; per Plaintiff's architect proposed construction of ramp cost will be \$119,094; per Public Works staff this project will cost \$603,350 – litigation is ongoing
- Schutza v. COSD: location - El Capitan Reservoir recreation area; issues – inaccessible restroom facilities on floating piers at the El Capitan Reservoir, paths of travel from parking lot and along the piers; settled in June of 2013 for \$19,065.19
- Jaime v. COSD, Hickman Youth Sports Association: location - Hickman Field owned by City and leased to Hickman Youth; issues – inaccessible bathrooms and parking lot; settled in October 2012 for \$10,000 (\$5,000 from the City and \$5,000 from Hickman Youth)
- CR vs COSD: Curb ramps Solita Avenue between Aragon Dr and 67th St, August 2019

In addition to judgment and settlement costs, City Attorney and staff time costs many thousands of dollars

What happens when the City's ADA program is weak? (continued)

Recent Investigations:

- Department of Justice (DOJ) investigated City for:
 - Children's Pool – waiting until lawsuit is completed before making final determination
 - Plaza de Panama handicapped parking
 - Curb ramps in CD9
- The CREEC Group investigating compliance of city curb ramps
- California Department of Transportation (CADOT) audit is requiring the City to do a new self evaluation and transition plan to include the public right of way (curb ramps, parking, sidewalks, accessible pedestrian signals, on street parking, bus stops), outdoor recreational areas (golf courses, parks, playgrounds, beaches), and all city buildings/facilities.

FY 21 Budget Request Summary

The City of San Diego must have a more robust ADA compliance effort, in order to comply with state and federal mandates. We strongly urge your support for a revision to the FY 21 proposed budget as follows:

- Restore 2 positions to the Office of ADA Compliance & Accessibility (ADACA) for a total of 5 full time positions
 - Current budget suggests 4 FTE, with another position moving
 - Need more staff, not less, due to current project backlog, continued incoming complaints & upcoming DOT investigation (June)
 - With 5 FTE, less than a year ago, ADACA was already struggling to keep up with federal mandates
- The Office of ADA Compliance & Accessibility should report directly to the Mayor's Office
 - ADACA has been moved many times & should not be moved to Mobility
 - ADA Compliance is not only to support those with physical (mobility) challenges. What about those with other disabilities?
 - Other cities ADA departments, such as L.A. and San Francisco, report to the Mayor's Office
- Consistent funding needs to be allocated and placed with the Office of ADACA in order to efficiently track and reduce the unfunded backlog of federally mandated ADA projects.
 - Budget for the unfunded backlog of ADA Transition Plan projects of \$35 million
 - Consider a 5-year plan to allocate \$7 million to address the unfunded backlog of these projects
 - Budget for the unfunded backlog of ADA Complaint projects of \$31 million
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- Prepare for Tourism to Rebound by Making San Diego "America's Finest Accessible City", where "ALL Are Welcome"

Thank You for Your Consideration!

Please feel free to contact us for more information.

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