

The Americans with Disabilities Act

Self-Evaluation

City of Elk Grove 2018



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SECTION I: PROJECT OVERVIEW

Acknowledgement

Sally Swanson Architects, Inc. (SSA) thanks the City of Elk Grove staff that gave their time and knowledge, without which this project would not have been possible. We wish to extend a special thanks to the City of Elk Grove Department of Public Works, which was instrumental in coordinating this project.

Introduction

The City of Elk Grove is committed to providing seamless access to all its programs, services and activities for qualified persons with disabilities. To ensure appropriate access exists, as well as compliance with State and Federal disability civil rights laws, the City of Elk Grove conducted this Americans with Disabilities Act (ADA) Self-Evaluation. ***An ADA Self-Evaluation is an examination of all programs, services and activities provided by the City to ensure that, when viewed in their entirety, they are readily accessible to qualified persons with disabilities.***

The City is covered by the ADA, Title II, and California Government Code §11135 and §12926. The City's employment programs are covered by the ADA, Title I, the Americans with Disabilities Amendment Act of 2008 (ADAAA) and California Government Code §12926. When comparing State and Federal Law, 28 CFR §35.103 mandates that the most stringent law be applied to create the maximum amount of access for persons with disabilities. Thus, the most stringent standards were applied in the course of the Self-Evaluation being reported in this document.

Background Information Regarding the ADA

Passed in 1990, the ADA is one of the most comprehensive civil rights laws in the nation. It provides protection to an estimated 57 million Americans in: employment (Title I); receipt of programs, services and activities from State and local government (Title II); the receipt of goods and services from private businesses (Title III); and telecommunications (Title IV). In 2008, the ADAAA was passed. The ADAAA gives guidance to the courts regarding who has standing under ADA. The result has been an increasing number of persons who are now able to bring their ADA cases to Federal Court.

Background Information Regarding California State Law

Under California Government Code §11135, the ADA has been incorporated into State law. Thus, the matters raised in this report, as ADA issues, are also State issues. California has, in California Government Code §12926, broadened the definition of disability beyond the ADAAA. State and Federal laws require that the law that is the most stringent be applied.

For the purposes of determining coverage under the ADA, California Government Code §12926 defines a person with a disability as follows:

1. A person having a physical or mental disability that limits a major life activity. This person is considered in the unmitigated status. Thus, the City would consider how the individual in question would function without the use of medication or devices that may mitigate the impact of the disability. If there is a limitation to a major life activity in this statute, coverage is established.
2. A person with a history of a disability as described in Section 1 above.
3. A person who is regarded as having a disability, such as a disability described in Section 1 above.

Among others, California State law also provides protection to cancer survivors, persons who have a genetic predisposition to illnesses or disabilities or persons who have received services within a special education program.

Scope of this ADA Self-Evaluation

The US Department of Justice (DOJ) within the ADA, Title II, Technical Assistance Manual (TAM) recommends a scope of review for Self-Evaluations, which contain thirteen program areas for review. This scope was used in the development of this report. Areas considered included:

- The Transition Plan (physical access to existing City facilities), which is covered in a companion document;
- Policies that may limit or exclude the participation of persons with disabilities;
- Communication systems used by the City;
- The provision of auxiliary aides and services to members of the public who are engaged in receiving programs, services or activities from the City;
- Access to emergency management for persons with disabilities;
- Disability awareness among City staff;
- Programs, services and activities provided within a registered historic site;
- Policies addressing policy modification requests and the determination of fundamental alteration of programs;
- Access to public meetings;
- Human Resources (HR) programs and policies;
- Construction policies;
- City staff training and support;
- ADA-related drug policies.

Method of Review

The City of Elk Grove contracted with SSA for the purpose of facilitating an ADA Self-Evaluation of City operations and updating the Transition Plan of City facilities and right-of-way. City policies regarding the ADA and general City functioning were requested and reviewed by SSA when submitted. Survey questions were developed by SSA and disseminated to key City staff for the purpose of providing a comprehensive analysis of City functions within the areas associated with the scope of review. SSA staff received and analyzed the survey results and reported them within. Some clarification was sought by SSA to ensure the best information was

used to create this report. SSA relied on the information provided by the City to define the findings and recommendations; no independent verification was performed.

The focus of this review was to determine if existing policies might limit or exclude the participation of persons with disabilities in receiving City programs, services or activities. There was also an examination to determine if new policies were needed to ensure ADA compliance.

SECTION II: CITY POLICY REVIEW

City of Elk Grove Staff Surveys and Interviews

The following questionnaires were used as the basis for interviews with City staff members that were knowledgeable of City operations and the subjects addressed within the questions. Each response was reviewed by the consultant and recommendations were made as presented in Section III, following this Section.

Self-Evaluation Questions for the ADA Coordinator

1. Does the City of Elk Grove have an ADA Notice of Compliance? If yes, does it address state law? Please attach the Notice.
2. Does the grievance system
 - a. Offer assistance to persons with disabilities, who due to their disability are not able to complete the grievance form?
 - b. Provide timelines when a complainant can expect a result?
 - c. Have a second level of review?
 - d. Contain a notice regarding availability of the grievance system in alternative format?
 - e. Contain the name and contact information of the ADA Coordinator?
3. Are the ADA Notice of Compliance and the grievance system posted on the City's website?
4. Who handles the fact finding and grievance administration?
5. Does the City of Elk Grove have a plan for ADA Notice and Grievance dissemination?
6. Does the ADA Coordinator's office have ready access to City senior management? If no, how are disability civil rights issues elevated in order that they may be addressed in a timely manner?

7. Who provides auxiliary aids and services to persons seeking accommodation under ADA Title II?
8. Who provides reasonable accommodations to applicants and employees under ADA Title I, ADAA and California Government Code §12926?
9. Who investigates grievances related to reasonable accommodations and other ADA related issues?
10. Is an interactive process used? If yes, how is it documented?
11. How is undue hardship determined and by whom?
12. Is there an anti-surcharge policy in place to make it clear to staff not to charge for accommodations?
13. Is contract language in place holding contractors and vendors to applicable State and Federal disability civil rights mandates? If yes, how is this enforced?
14. If a person with a disability believes they have been discriminated against by a City vendor or contractor, what steps are open to them?
15. Is an accessibility plan check done when vendors are conducting tenant improvements in public services areas?
16. Is guidance in place for City staff and vendors regarding clear space and furniture placement? If yes, please attach the guidance.
17. Does the City have a service animal policy? If yes, how is staff trained?
18. How is access for comfort animals addressed?
19. Is there a procedure in place to be used by City staff should there be an incident involving a service animal? If yes, please attach the procedure.
20. How does the City address service animal relief areas during meetings and events?
21. Are all City of Elk Grove publications offered in alterative formats?

22. Is there notice on all public meeting announcements that auxiliary aids and services are made available as needed for meeting participants with disabilities?
23. Is the City's 911 system accessible to TTYs and modems?
24. Are City staff and vendors, who have public contact trained or provided guidance regarding ADA requirements and disability awareness?
25. How are new employees oriented to etiquette, language and City's legal disability civil rights mandates?
26. When disability civil rights training is provided, do you retain a roster of trainees, information regarding the subject and length of the training, the training plan or Power Point and the trainer's resume?
27. Has the City's Disability Advisory Committee been trained regarding the mandates the City is held to under ADA and California Government Code §11135 and §12926?
28. What trainings do you think should be provided to City staff?
29. Are publications reviewed to ensure they do not portray persons with disabilities in a negative manner?
30. Is there a policy and procedure in place to address policy modification requests and the determination of undue burden? If yes, when was it last updated? Please attach a copy of the policy.
31. Is there a policy and procedure in place to address direct threat determination to others? If yes, when was it last updated? Please attach a copy of the policy.
32. Is there a policy and procedure in place regarding maintenance of accessible features? If yes, please attach.
33. Is there a system in place to identify safety and access issues, which can be used by maintenance staff to report and or correct problems?
34. Has maintenance staff been trained to identify access and safety issues?

35. If “Program Access” solutions are used to create access are they approved by the ADA Coordinator before they are put in place?
36. When “Program Access” solutions are put in place are they documented by a written procedure to ensure staff implements them appropriately?
37. Are transportation providers, if applicable, trained regarding the use of tie downs, disability awareness, and the requirement that stops be called and other transportation mandates?
38. Has a policy been created to address motorized mobility devices, as required by 28 CFR §35.137? Note: This is a policy the City has the legal option of creating if it is seen to be in the City’s best interest.
39. When the purchase of new equipment is made, (purchases including, but not limited to communication and transportation equipment) how are access requirements addressed?
40. Does the City operate any programs, services or activities from a registered historic site? If yes, please list the sites.
41. Have the City of Elk Grove law enforcement officers received disability awareness training, such as the US DOJ role call videos?
42. How is access monitored during City related projects during planning and construction?
43. When entering into settlement agreements as part of the Project Civic Access, the US DOJ requires that the staff of Title II entities, which have public contact, attend a two-hour training covering ADA requirements and disability awareness. How is the City of Elk Grove informing impacted staff of the City’s responsibilities and disability awareness?
44. In addition to staff training provided to date, are there other trainings you feel should be produced? If yes, what training is needed and for whom?
45. Are there areas, not noted above, that you feel should be studied within this Self-Evaluation?

46. Does the City of Elk Grove have a policy in place that prohibits discrimination against persons who formerly used drugs illegally?
47. Does the City have any programs that sell tickets with assigned seating?
48. How are reasonable accommodations for City volunteers handled?
49. Does the City of Elk Grove have an anti-disability harassment policy? If yes,
 - a. Is it based upon zero tolerance or the legal definition of disability harassment?
 - b. How often is it disseminated to all City staff?

ADA Communications Survey

1. Does the City prescribe a certain font type for City published documents? If yes, what font type is used?
2. Does the City require a certain font size in City publications? If yes, please name the font size.
3. Is there a notice on all City publications informing users that the publications are available in alternative format, if needed for persons with disabilities?
4. Have City publications been reviewed to determine whether they portray persons with disabilities in a demeaning or offensive manner?
5. Have the City staff members that create publications or correspondence on behalf of the City been trained in the appropriate use of "person first language"?
6. Have City telephone information lines been examined to determine whether or not they are accessible to persons who are deaf and hard of hearing?
7. Have local resources been identified which can provide auxiliary aids for communication as needed?
8. Does the City use any touch screen information systems for public interaction? If yes, is there an independent operating system for persons with visual impairments?
9. If videotape is used on the City website or in any other City forums, is it captioned?
10. Is there a policy in place for securing video remote interpreting services (VRI)?

11. If the Public Information Officer communicates with the press and releases critical information, is a sign language interpreter visible and within the screenshot if television cameras are in use or is a captioning service used?
12. Are computers used by members of the public, such as in libraries? If yes, are they equipped with software which makes them accessible to persons with visual impairments?
13. Are videos played in such places as waiting rooms, captioned for the public?
14. If public address systems are used, is there a component that makes the information accessible to persons who are deaf or hard of hearing?
15. When announcements are distributed electronically from the City are they sent out in PDF and Word documents simultaneously?
16. Given the issues noted above, are there areas where you feel training of City facility and staff would be beneficial? If yes, please list the areas of training you have identified.

ADA Self-Evaluation Questions Regarding Electronic Communication

1. Are all web site postings reviewed for access before they are put up?
2. Have all files on City public sites been reviewed for access? If such a review is planned or in progress, please discuss it.
3. Do all websites meet 508 or WCAG 2.0 standards?
4. Have any complaints been received regarding access to any City website?
5. Is there a text equivalent, such as an alt tag on all non-text items such as photos or graphics?
6. For multimedia presentations, are equivalent accessible alternatives used, which are synchronized with the presentation?
7. If video is used is it captioned for persons who are Deaf or Hard of Hearing?
8. When information is conveyed in color is the same information made available without the use of color?
9. Are documents organized in order that they are readable without the need for an associated style sheet?

10. Are redundant text links provided for each active region of a server-side image map?
11. Are row and column headers identified for data tables?
12. Is markup used to associate data cells and header cells for tables that have more than two or more logical levels of rows or column headers?
13. Are frames titled with text for form identification and navigation?
14. Are all pages designed to avoid the screen to flicker with a frequency greater than 2 Hz or less than 55Hz?
15. Is the text-only page designed with equivalent information and functionality?
16. Is the content of the text-only page updated at the same time the primary page is changed?
17. Is updating addressed the same way for all City public web sites?
18. If page uses scripting languages to display content, or create interface elements, is the information provided by the script readable by assistive technology?
19. If a web page or informational kiosk requires an applet or plug in device for access, does the required device(s) comply with Section §1194.21 of the Technical Standards for Software Operating Systems (a) through (l)?
20. If electronic forms are to be filled out on line, do they work with assistive technology?
21. Have the systems discussed in question 19 been tested by end users?
22. Is a system in place that allows screen reader users to skip navigational links?
23. Are systems in place that may time out while a person is giving a response? If yes, is there a way that the user is warned and can obtain more time without losing data?
24. Are touch screen systems in use? If yes, do they have accessible operating systems for persons who are blind? If video is used, is it captioned? Does the video contain audio descriptors?
25. If City Council meetings are broadcast, do they have captioning?

ADA Self Evaluation Questions Regarding Emergencies

City and Office sites

1. Has the City used the guidance published by the EEOC regarding a lawful means of identifying employees who might need assistance during an emergency due to their disability?
2. Do City office buildings have a visitor's sign-in system to include an item whereby a visitor can declare, on a voluntarily basis that they would need assistance in an emergency due to a disability?
3. Have floor wardens been trained regarding the needs of persons with disabilities in emergency situations?
4. If floor warders are assigned the responsibility of assisting persons with disabilities, are redundancies made in the assignments? (Consider wardens who might not be in the office on the day of the event.)
5. Has the emergency plan been coordinated with the Fire Department?
6. Is there a procedure for shutting down the intake on the HVAC system, if there is a need to shelter in place, due to contamination of the air outside the building?
7. Are persons with disabilities involved in emergency plan creation, drills and debriefings?
8. In the event of an emergency evacuation, has the path of travel and assembly been coordinated with the Fire Department? (Consider Fire Department points of arrival, staging area, areas for fire hoses, wheel chair users, distance needed from emergency site, etc.)
9. In response to a bomb threat, if evacuation is required, is the assembly site checked for explosives before it is populated?
10. If the event involves the need for site occupants to be decontaminated before leaving the site, is there a procedure in place to hold all parties on site until decontamination has been completed?

11. During shelter-in-place events, how are medical and medication needs addressed?
12. Can the person on site handling the event until the fire department arrives, communicate with the Fire Department as they are rolling to the site?
13. Is there information available to staff regarding how to deal with various types of events? (Consider earthquakes, fire, shooting, bomb threat, civil unrest, terrorist attacks, etc.) If yes, has it been made available to employees, if needed, in alternative formats?
14. Is the whole site covered by fire alarms and strobe lights?
15. Are exits clearly marked?
16. Are back up emergency evacuation chairs in place?
17. If areas of safe refuge will be in use, is there a communication system from that site to the event control center? If yes, would this system work for a deaf person?
18. Are all PA systems monitored by maintenance staff to ensure the volume is high enough to be heard throughout the intended areas of impact?
19. Are emergency evacuation chairs to be used? If yes, consider:
 - a. Has staff been trained in the use of these chairs?
 - b. If yes, did this training include information regarding the risks of transferring some persons with disabilities into and out of the chair?
 - c. Have impacted employees with disabilities been involved with the training?
 - d. What is the plan should the chair need to be used for more than one person? (Consider where the first evacuee will be left when the chair is taken back into the site for reuse.)
 - e. Have the chairs been tested in the stairwells to ensure they can operate and turn in the space available?
 - f. What is the plan in the event the slow moving chairs create a backup in the stairwell?

- g. Are the chairs stored close to where they will be used?
 - h. Are there any barriers or locks impacting ability to obtain them when needed?
 - i. Are chair manufacturer directives, if any, regarding maintenance followed?
20. Is there a plan in place to keep people hydrated if it is necessary to hold them outside the building for a prolonged period during hot weather?
21. Do elevators have a system to communicate, if a person is trapped? If yes, will this system work for a person who is deaf or have speech limitations?
22. Has emergency management staff been trained regarding the variety of events that might occur and their impact on persons with disabilities?

City Wide Events

1. Who is in command during an emergency?
2. Is there an evacuation plan for each neighborhood or community?
3. When the PIO makes press announcements regarding the incident is a sign language interpreter used?
4. Is staff trained to identify and address the needs of persons with disabilities?
5. Is there a registry of persons with disabilities who might need special assistance during an emergency? (Please note this question does not imply that SSA recommended such a registry)
6. Has the City of Elk Grove used the US Department of Justice guidance regarding disaster management? (Please note this can be located at ADA.gov.)
7. Does the City of Elk Grove have a reverse 911 system or some other method of communicating with sections of the City?
8. If prolonged sheltering in place is necessary, is there a means of obtaining
 - a. Accessible cots.
 - b. Medication and medical supplies.
 - c. Access for professionals who may arrive and be able to help.

- d. Feeding systems (this includes provision of food and feeding help for those who need it).
9. Is more than one source identified to obtain needed items? (Consider that some supply sources may have been impacted by the emergency)
10. Is there a backup means in place by which room temperature can be maintained? (Consider persons who may die if the temperature is too high)
11. Is there a policy in place regarding access to the shelter for service animals?
12. Is there a policy in place requiring that persons with disabilities are served in integrated settings?
13. Have all third parties who may provide aid, such as the American Red Cross agreed to comply with the mandates the City of Elk Grove is held to by ADA Title II?
14. If evacuation is needed, is a plan in place which would provide
 - a. Accessible vehicles
 - b. Drivers
 - c. Fuel
 - d. Appropriate destination(s)
15. Have various area hospitals been identified, which could accept injured persons?
16. If the evacuation of a building is necessary, how is the impacted area swept to ensure it is clear?
17. How is new staff oriented regarding the emergency plan?
18. Are drills held? If yes, do they involve different types of incidents? Please list.
19. Do they involve persons with disabilities?
20. Is the City ADA Coordinator involved?
21. Does the City of Elk Grove have a Disability Advisory Committee involved? If yes, are they involved in this area?

ADA Self Evaluation Questions for Law Enforcement

1. Have the City of Elk Grove first responders been trained regarding the disability civil rights mandates that the City is held to under State and Federal laws?
2. Have holding and booking areas been reviewed for access since the 2010 ADA Standards for Accessible Design became effective? If visitor areas are offered, are they accessible?
3. If inmate phone systems are provided is there a phone system for inmates who are deaf or hard of hearing?
4. When arrests are made, how are service animals dealt with?
5. When arrests are made, how are medical appliances (canes, walkers, hearing aids, oxygen tanks, etc.) addressed?
6. How are power wheelchairs, scooters and other large mobility devices transported after an arrest?
7. How are medication needs dealt with after an arrest?
8. When an officer is giving information (direction or Miranda Rights) to a person with a communication related limitation, how is it determined that the person has an understanding of the information being communicated?
9. How do officers communicate with persons who are Deaf?
10. Does the 911 system have TTY? If yes, how often does training occur regarding its use?
11. Is there a procedure in place for officers to obtain a sign language interpreter when one is needed on an emergency basis?
12. Have officers been trained regarding the best techniques for communication with persons with disabilities and officer safety? If yes, were the following disabilities covered?
 - a. Vision Impairments
 - b. Deaf, Hard of hearing and Speech Impairments

- c. Developmental Disabilities
 - d. Traumatic Brain Injury
 - e. Post-Traumatic Stress Disorder
 - f. Learning Disabilities
 - g. Mobility Impairments
 - h. Multiple Chemical Sensitivities
 - i. Mental Disorders
 - j. Competing Disabilities (i.e. someone is on the bus with a service dog and another person on the bus has a phobic response to the dog and wants it removed as an accommodation. Both have rights to be considered. The passengers are in conflict)
13. Are there other issues you feel should be addressed in dealing with disability civil rights and your role within the City of Elk Grove? If yes, please explain.
14. When handcuffing a subject who uses sign language for communication, what procedures are used?
15. Do patrol officers have communications cards for use in interacting with persons who are deaf or hard of hearing?

ADA Self-Evaluation Survey Regarding Employment

1. Are City openings advertised through organizations, which have a disability constituency, i.e. the Department of Rehabilitation, Independent Living Centers and other community based disability organization? If yes, please describe how this occurs. If it does not occur, please make recommendations, which would put this practice in place.
2. If the City of Elk Grove has a telephone job line, how can persons who are deaf or hard of hearing obtain the same information? If yes, how?
3. Are essential and marginal functions of each position identified before advertising for the position? If yes, by whom?
4. Have minimum qualifications been reviewed to ensure that they are job related and consistent with business necessity? For example, requiring a driver's license for a position where the incumbent does not drive might disqualify an otherwise qualified person with a disability. Please make recommendations as appropriate to improve this process.

5. Please describe how information about testing and openings are made available in alternative format for persons who request it, due to their disability related needs. Are improvements needed to this system? If yes, please describe.
6. Do job bulletins announcing openings contain statements regarding the City's nondiscrimination policy concerning persons with disabilities?
7. Do job announcements inform candidates that reasonable accommodations are available as appropriate during the selection process?
8. How is the process discussed in number 7 carried out?
9. How are selection activities, i.e. interview questions, writing exercises, reference checks, etc., coordinated with the essential functions of the position?
10. What recommendations do you have for improvement of this process?
11. Do candidates know in advance of the types of activities they will need to engage in during the selection process? If yes, how are they informed? Please share any recommendations you have to enhance this process.
12. How are selection panelists trained in disability etiquette and legal question formation?
13. Who ensures that selections are conducted in accessible locations?
14. Is there a policy requiring that selection sites be adjacent to accessible public transportation?
15. Are panel interviews held in buildings owned by the City?
16. Is the City's reasonable accommodation procedure posted and readily available to employees and candidates for employment?
17. Is reasonable accommodation available during selection, the performance of essential functions and for the receipt of benefits of employment?
18. Is assistance in completing forms regarding the reasonable accommodation process available as needed by persons with disabilities?
19. Have State and Federal laws been compared to determine which provides the greatest access and are the most inclusive requirements used as a basis for employment policy/practice?

20. Does the reasonable accommodation procedure require an interactive process, which includes; disability disclosure, interactive problem solving, accommodation selection, accommodation implementation and ongoing follow-up to ensure effectiveness?
21. How is the interactive process documented? Please explain.
22. Have persons responsible for the reasonable accommodation process been trained regarding the legal requirements in this area?
23. Are medical inquiries based upon the need that is job related and consistent with business necessity?
24. When making a medical inquiry, does the City of Elk Grove inform the medical provider that genetic information is not being requested as mandated by the Genetic Information Nondiscrimination Act and the FEHA?
25. What outside resources have been identified to assist in the reasonable accommodation process when additional information is needed?
26. Is there a system in place to reassign employees with disabilities into vacant positions City-wide if effective accommodation is not possible in their current position?
27. What is the process to determine that an employee is not able to be accommodated in their current position?
28. Are Workers Compensation medical records kept separate from medical records obtained to facilitate reasonable accommodations?
29. Are supervisors trained that it is unlawful to ask questions about disability or questions that might lead to information about a disability during selection interviews or reference checks? How does HR staff, supervisors and managers obtain information regarding the legal requirements to which the City of Elk Grove is held?
30. If you have recommendations for improvements in this area, please note them.
31. Is this decision reviewed before the transfer is affected? If yes, by whom?
32. How long does the City seek a vacant position for an employee needing reassignment as a form of reasonable accommodation?
33. The reassigned employee must be able to perform the essential functions of the new position with or without reasonable accommodation. How is the reasonable accommodation process handled during reassignment?

34. Does the City have a policy prohibiting reassigned staff from competing for the position they are being assigned to?
35. Have emergency management teams in all facilities been trained regarding the needs of employees with disabilities during an emergency?
36. Has the guidance for employer's issues by the EEOC, concerning identifying staff with disabilities that may need assistance in an emergency been used? If yes, how often is it used?
37. Is a statement disseminated to all staff annually putting them on notice that the City of Elk Grove has prohibited disability discrimination or harassment including jokes or inappropriate language?
38. What is the process for determining undue hardship regarding a reasonable accommodation process?
39. What is the process for determining direct threat?
40. What system is in place to address the need an employee with a severe disability might have, in terms of driving a modified vehicle on work related business?
41. If an employee with a severe disability is on travel status and needs a personal service attendant, is there a system in place to address this need?
42. Is the City of Elk Grove's Notice of ADA Compliance posted in all work sites?
43. Is the City of Elk Grove's ADA grievance system posted in all work sites?

ADA Survey for Staff Responsible for Purchasing and Service Contracts

General Conditions

1. Are all public documents related to bidding and contracting available to persons with disabilities in an alternative format if needed?
2. Are meetings related to bidding and contracting held in accessible locations?

Construction and Remodels

1. Do all design contracts hold design professionals to designs that use, at minimum, the most stringent access standards in effect at the time of the project?

2. Do design contracts encourage design professionals to exceed the maximum access standards when possible to ensure that contraction tolerances are built into the project?
3. Is policy in place that mandates Certified Access Specialist (CAsp) inspections at key points of construction and at completion, before final payment is made?
4. Are major public projects reviewed by stakeholders with disabilities during the planning stage?

Service Contracts

1. Do all contracts in which the contractor will be providing programs, services or activities on behalf of your office, written in a manner that holds the contractor to the mandates of Title II of the ADA and California Government Code §11135?
2. If a recipient of programs, services or activities via service contracts believe that their civil rights have been violated what recourse is open to them?
3. How do the contract administrator and ADA Coordinator become aware of alleged civil rights violations? (Please discuss timelines and communication of facts.)

Purchase of Items Which Have Communication Elements

1. Is there a requirement in place that mandates the purchasing agent check the marketplace to determine if accessible items of the type being purchased are available?
2. Are items purchased examined to determine if they are usable by persons who are:
 - a. Blind
 - b. Have low vision
 - c. Deaf
 - d. Are hard of hearing
 - e. Have learning disabilities (Consider items that do not contain time limits on their use and close down.)
 - f. Have limited dexterity (Consider items that do not require grasping, pinching or twisting.)
3. When questions come up regarding accessible communication purchases, are outside resources consulted (Disability Advisory Committees, Jobs Accommodation Network, local Independent Living Center, etc.) before the purchase is made?

General Purchases

1. Prior to the purchase and if applicable, are building standards reviewed to ensure the item in question will be compliant when installed in its intended location? (Factors to consider include, but are not limited to; toilet paper dispensers must be located below the grab bar, items may not protrude more than 4" from the wall in a path of travel if they are placed at an elevation above 27" or below 80", there must be clear space available for a wheelchair user to be able to approach the item for use, an item must not require a person to reach higher than 48" or lower than 15" to operate unless the user must reach over other items to operate, then it lowers, etc.)
2. Is the operational presser required to use an item considered? (It should not exceed 5 lbs.)
3. Is dexterity considered before a purchase is made? (Users must not be required to grasp, pinch or twist the device to operate it.)
4. When furniture is purchased is knee clearance for tables and clear space within a room considered?

ADA Self-Evaluation Questions for Persons Managing Facilities and Space Leased to Third Parties

1. Is there a policy in place regarding the maintenance of accessible features? If yes, has maintenance staff been trained regarding identifying and reporting or repairing disability access and safety issues?
2. Is guidance available to impacted staff regarding furniture placement and access issues? (Consideration includes, but is not limited to clear space, strike side clearance, bulletin board elevation, reach ranges, etc.) (Applies only if the City is providing furniture and equipment.)
3. Do lease agreements clearly define areas of City and tenant responsibilities regarding access?
4. Are facilities surveyed to determine if access and safety is being maintained?
5. How are tenant improvement projects reviewed to determine if they create disability civil rights violations?
6. Are City equipment and furniture purchases reviewed to determine if they comply with access standards?
7. When access improvements are made, are the barriers to access that have been mitigated incorporated into the City ADA Transition Plan to show the City of Elk Grove's good faith effort to comply with ADA?

8. Are construction and remodeling projects done in conjunction with a CASp? Note: CASp reviews are recommended at plan check, at key points of construction and upon project completion.
9. Are access barriers addressed before the City occupies the space?

ADA Self-Evaluation Questions for Meeting and Event Planners

1. Is notice provided within meeting/event announcements that auxiliary aids and services (reasonable accommodations) are available as needed for persons with disabilities?
2. Are persons administering the meeting trained regarding the City's disability civil rights responsibilities?
3. Are meetings held on public transportation routes?
4. Are meeting sites reviewed for physical accessibility before the meeting is calendared? Note: This must include arrival points, meeting room(s), supporting restrooms, drinking fountains, public phones, registration counters, etc.
5. Are service animal relief areas identified before the meeting?
6. Are stages, speaking platforms, microphones and other items to be used by persons with disabilities accessible? Note: When considering microphone access please take into account podium elevations, touch screen control systems, goose neck microphone attached to the center of tables without knee clearance for wheelchair users, and persons who will not be able to handhold any equipment.
7. If video is used, is it captioned?
8. If video is used does it contain audio descriptors?
9. Are speakers asked to read aloud all content on PowerPoint Presentations?
10. Is integrated seating made available with companion seating for wheelchair users?
11. If seating is at tables, is knee clearance space checked for wheelchair users?
12. Is high seating available for persons who have difficulty getting in and out of low chairs?
13. Is staff trained to set up meeting rooms to provide maneuvering space for persons who use wheelchairs or service animals?

14. Are FM Loop systems (Assistive Listening Devices) available for persons who are hard of hearing? If FM Loop systems are being used, do meeting hosts ensure that all comments made during the meeting go through the PA system?
15. If sign language interpreters or a real time captioner are being used, is there reserved seating at the front of the room for persons needing these accommodations?
16. Are two sign language interpreters retained for meetings or events lasting more than two hours?
17. Are sign language interpreters and real-time captioning screens positioned close to the speaker?
18. Are sign language interpreters under good lighting?
19. Are sign language interpreters and real time captioners provided information before the meeting/event regarding any unusual terms or difficult to spell names that will be part of the program?
20. If speaker cards are to be used, is staff available to assist persons with disabilities, as needed, in completing the cards?
21. If public comment time is limited, is the time increased for persons who have speech impairments?
22. If events include displays, are the displays accessible and on an accessible route?
23. Is the indoor or outdoor surface where persons with disabilities will travel smooth, stable and slip resistant?
24. Have transaction points been reviewed for clear space, and elevation?
25. If parts of an exhibit are inaccessible due to technical infeasibility, is video with captioning used to display the exhibit?
26. Does the City of Elk Grove have an event planning checklist to address access in meetings and event planning?

ADA Self-Evaluation Questions for Transportation

1. Are transportation providers trained regarding, the use of tie downs, disability awareness, and the requirement that stops be called and other transportation mandates?

2. Does the Dial-a-Ride system require that all passengers wear seat belts?
3. Are transportation providers trained regarding disability awareness?
4. How is new staff trained regarding disability issues?
5. Are vehicles accessible?
6. What is the procedure when there is an equipment failure? How is access maintained?
7. How are transportation complaints handled?
8. Have there been any complaints regarding access to transportation? If yes, please discuss the complaints and how they were addressed.
9. When the purchase of new equipment is made, (purchases including, but not limited to communication and transportation equipment) how are access requirements addressed?
10. Are service animals allowed on transportation systems?

Vetting of Self-Evaluation and ADA Transition Plan

On the evening of December 14, 2017, a public vetting meeting was held at the City of Elk Grove Council Chambers, 8400 Laguna Palms Way, Elk Grove, CA 95758. The meeting was advertised in advance both directly and through social media to over forty-four individuals and organizations representing those with disabilities in Elk Grove. A small number of residents joined two members of the City's Disability Advisory Committee, City staff, and members of the SSA Access Evaluation team for a discussion regarding access within the City of Elk Grove. A presentation was made that covered the ADA Transition Plan and Self-Evaluation project. Input was solicited.

Some of the issues raised related to programs services and activities with private business as well as with service animals. Appropriate referrals were made to departments managing the issues in question.

Basic questions concerning ADA were asked and answered.

Further information can be found in Appendix I

Use of This Self-Evaluation as a Living Document

The ADA requires that a Self-Evaluation be conducted once. Many entities including the City of Elk Grove recognize the value of using this document on an ongoing basis. As such, it's available to incorporate new policies as needed in response to emerging and case law, new regulation or the development or modification of City programs.

Thus, an addendum to this report can be added as needed to document the City's good-faith effort to make the changes necessary to ensure appropriate access for residents, employees and visitors to the City of Elk Grove, who might be impacted by City operations.

SECTION III: FINDINGS AND RECOMMENDATIONS

Findings and Recommendations Based on Survey and Interview Results

The following findings were developed from the results of the surveys from Section II and interviews with City staff. The recommendations are based on applicable state and federal accessibility law, regulations, and standards, and applicable best practices. The findings and recommendations are categorized into the thirteen program areas discussed in Section I as defined by the US DOJ. Following each recommendation is the corresponding number (WP#1) referring to the Work Plan for the Self-Evaluation Implementation (Section IV). This number can be used to determine the status of the City's response to each recommendation.

1. The Transition Plan (physical access to existing City facilities), which is covered in a companion document

Please see the ADA Self-Evaluation and Transition Plan – Executive Summary for information on physical barriers to the City's programs, activities, and services.

2. Policies that may limit or exclude the participation of persons with disabilities

- 2.1 Finding: No evidence was found that the City's design contracts require design professionals to use, at a minimum, the most stringent access standards in affect at the time of the project as mandated by 28 CFR §35.103.

Recommendation: Ensure the most stringent standards are enforced by contract. (WP #1)

- 2.2 Finding: The City does not currently have a service animal policy.

Recommendation: Move forward with plans to create a service animal policy pursuant to 28 CFR §35.136 and ensure City staff is trained on the new policy. (WP #2)

- 2.3 Finding: No protocol is in place to establish service animal relief areas for City produced meetings and events.

Recommendation: Although not required, providing a service animal relief area sends a welcoming message. We (SSA) recommend the City's service animal policy include procedures in this area. (WP #3)

- 2.4 Finding: No policy was found to comply with 28 CFR §35.131 (discrimination against persons who formerly used drugs in an illegal manner, have been through a rehabilitation program, and are currently not using drugs in an illegal manner).

Recommendation: Create a policy to comply with 28 CFR §35.131. (WP #4)

- 2.5 Finding: The City's job announcement nondiscrimination statement does not list the protected classes as a best practice to promote compliance with California Government Code §12940(a).

Recommendation: To ensure clarity, revise job announcement nondiscrimination statement to include protected classes.(WP #5)

- 2.6 Finding: Police Officers are trained to refer ADA complaints to the Civil Rights Division of the US Department of Justice (DOJ). They have not been trained to direct those complainants to the City employee responsible for handling ADA grievances (the publishing of which is required by 28 CFR §35.107).

Recommendation: Ensure all Police staff are aware of the Elk Grove ADA Grievance system and refer complaints to that system as well as the US DOJ. (WP #6)

- 2.7 Finding: No procedure is in place to address individuals participating in, or benefitting from, City services, programs, or activities who pose a direct threat to the health or safety of others as required by 28 CFR §35.139.

Recommendation: Create a system for the determination of direct threat using the requirement of 28 CFR §35.139(b) summarized as follows: an individualized assessment, based on reasonable judgment that relies upon current medical knowledge to ascertain the risk, the probability of injury, and ways to mitigate those. (WP #7)

Note: Direct threat may arise from other situations than a psychiatric disability. Under the regulations one would examine only direct threat to others.

3. Communication systems used by the City

- 3.1 Finding: City publications do not contain a notice offering them in alternative formats as needed by persons with disabilities pursuant to 28 CFR §35.160.

Recommendation: Ensure City publications contain a notice offering them in alternative formats if needed by persons with disabilities. Train staff on how to address requests for alternative formats when they are made. (WP #8)

- 3.2 Finding: No system was found by which publications are reviewed to ensure appropriate language is used regarding persons with disabilities as recommended by the US Department of Justice (DOJ) within the ADA, Title II, Technical Assistance Manual II-8.2000 #6.

Recommendation: As a best practice, train staff on person first language and ensure it is used when writing about persons with disabilities. (WP #9)

- 3.3 Finding: The Web Content Accessibility Guidelines (WCAG) 2.0 has not been adopted as the web access standard for the City. This standard has emerged as the standard the US DOJ will accept as effective communications.

Recommendation: Adopt and apply WCAG 2.0. (WP #10)

4. The provision of auxiliary aides and services to members of the public who are engaged in receiving programs, services or activities from the City

- 4.1 Finding: No evidence was found that resources for the full range of auxiliary aids and services have been identified pursuant to 28 CFR §35.160(b)(1)(2) This could result in a delay in obtaining the services when needed.

Recommendation: Locate and document resources for the provision of auxiliary aids and services. (WP #11)

Note: The auxiliary aids needed would be dependent upon the outcome of the interactive process, pursuant to 28 CFR §35.160(b)(2) with the requester. They may include, but not be limited to; Braille, real time captioning, sign language interpreting, oral interpreting, note taking, large print, etc.

- 4.2 Finding: Not all live or pre-recorded video provided by the City is captioned.

Recommendation: Ensure all video provided by the City is captioned. (WP #12)

- 4.3 Finding: Computers accessible to the public, located in the Building Department lobby and City Clerk lobby, are not accessible to some persons with disabilities.

Recommendation: Add accessibility features and/or software to computers used by the public so that they are accessible to all. (WP #13)

5. Access to emergency management for persons with disabilities

- 5.1 Finding: Pursuant to 28 CFR §130(b)(8) and California Government Code §8593.3, no protocol was found to be in place regarding using the services of a sign language interpreter within the screen shot if a City official needs to make statements via television in crises situations.

Recommendation: If a City official makes a televised statement during crises situations, ensure the message is captioned or that a sign language interpreter is seen in the screen shot. (WP #14)

- 5.2 Finding: No evidence was found that the City is using guidance from US DOJ, as a best practice, regarding emergency management for persons with disabilities.

Recommendation: Use the US DOJ guidance, where found reasonable and feasible, regarding emergency management and persons with disabilities. (WP #15)

- 5.3 Finding: As part of the City's Emergency Action Plan, Emergency Coordinators have not been trained regarding the needs of persons with disabilities in emergency situations, to ensure compliance with 28 CFR §130(b)(8) and California Government Code §8593.3

Recommendation: Train Emergency Coordinators regarding the needs of persons with disabilities in emergency situations using the US DOJ publications regarding emergency management for persons with disabilities as a guide. (WP #16)

- 5.4 Finding: No evidence was found that Emergency Coordinators are part of the planning for the needs of persons with disabilities during an emergency.

Recommendations: Require Human Resources to notify Emergency Coordinators of any employee needing reasonable accommodation under the City's Emergency Action Plan. (WP #17)

- 5.5 Finding: No protocols were found to ensure emergency television broadcasts are accessible to persons who are deaf or hard of hearing pursuant to 28 CFR §130(b)(8) and CA Gov Code §8593.3.

Recommendations: Ensure that emergency television broadcasts are accessible to persons who are deaf or hard of hearing. This can be done by

having a sign language interpreter in the screen shot or by using captioning. (WP #18)

- 5.6 Finding: The City's Emergency Management Plan does not contain procedures mitigating issues faced by persons with disabilities during emergencies, as is required by 28 CFR §130(b)(8) and CA Gov Code §8593.3.

Recommendation: Incorporate procedures into the City's Emergency Management Plan which address mitigation of issues faced by persons with disabilities during emergencies. The US DOJ publications regarding emergency management for persons with disabilities may be used as guidance. (WP #19)

- 5.7 Finding: Emergency Management drills and Emergency Management Plan modifications do not include the participation of those with disabilities.

Recommendation: As a best practice, for appropriate drills, and for plan modifications, input should be obtained on a cross-disability basis from the public and/or the City's Disability Advisory Committee. (WP #20)

- 5.8 Finding: City emergency management teams have not been trained regarding the needs of persons with disabilities during emergency events to ensure compliance with 28 CFR §130(b)(8) and California Government Code §8593.3.

Recommendation: Train emergency management teams regarding the needs of persons with disabilities during emergency events. (WP #21)

- 5.9 Finding: The EEOC guidance, titled *Fact Sheet on Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures*, regarding identifying staff who may need assistance during an emergency is not being used.

Recommendation: At the time of hire, Human Resources should, as part of the reasonable accommodation and/or interactive process, proactively utilize the EEOC guidance as outlined in the *Fact Sheet on Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures*. Human Resources should also proactively ask staff to disclose disabilities on a voluntary basis and ask individual staff if a new disability is observed. (WP #22)

6. Disability Awareness among City staff

- 6.1 Finding: Disability Awareness Training has not been provided to all City staff pursuant to DOJ recommendations requiring 4 hours of public contact training

including, but not limited to, “person-first language”, service animal issues, communications, and the basic mandates of the ADA.

Recommendation: Provide training to all City staff that have public contact to include, but not be limited to, disability awareness, “person-first language”, service animal issues, communications, and the basic mandates of the ADA. (WP #23)

7. Programs, services and activities provided within a registered historic site

7.1 The City does not provide programs, services, or activities within a registered historic site.

8. Policies addressing policy modification requests and the determination of fundamental alteration of programs

8.1 Finding: No specific procedure was found that addresses policy modification requests and the determination of fundamental alteration as mandated by 28 CFR §35.130 (7)(i), 28 CFR §35.164 Duties.

Recommendation: Create a procedure to address policy modification requests. Such a system should include; how requests are evaluated, what steps are taken to identify alternative forms of accommodation, how the City handles a request that would result in a fundamental program alteration, and who within the City approves the policy modification denial letter, if needed. 28 CFR §35.164 Duties states that denial letters only be authorized by City staff who have an understanding of all the resources within the organization. (WP #24)

9. Access to public meetings

9.1 Finding: A notice regarding the availability of auxiliary aids and services is not included in all notices regarding meetings and events pursuant to 28 CFR §35.106, 28 CFR §150(a), 28 CFR §149, 28 CFR §35.160(b)(1) and as recommended by the US Department of Justice (DOJ) within the ADA, Title II, Technical Assistance Manual II-8.2000 #4.

Recommendation: Create a policy that requires notices of meetings and events to include a statement regarding the availability of auxiliary aids and services for persons with disabilities.(WP #25)

9.2 Finding: Staff coordinating meetings and events are not trained regarding accessibility requirements as a best practice to ensure compliance of 28 CFR §149 and 28 CFR §35.160(b)(1) .

Recommendation: Provide accessibility training and/or guidance to meeting and event coordinators. (WP #26)

- 9.3 Finding: There is no policy addressing service animal relief areas during meetings and event productions.

Recommendation: As a best practice, include procedure for setting aside, and for providing directions to, service animal relief areas for use during meetings and events in Service Animal Policy. (WP #27)

- 9.4 Finding: Event stages are not typically accessible, as required by 28 CFR §149 and 28 CFR §35.160(b)(1).

Recommendation: Provide accessible stages for all events using stages. (WP #28)

- 9.5 Finding: City event coordinators and staff have not been trained on providing integrated and companion seating requirements required by 28 CFR §35.138, 28 CFR §35.150(b)(1), 28 CFR §35.151(g).

Recommendation: Provide training to City event coordinators and staff on integrated and companion seating requirements. (WP #29)

- 9.6 Finding: Not all video and presentations are accessible to deaf, hard of hearing, and persons who are blind.

Recommendation: Provide captioning and audio descriptors on all video used in public display to ensure compliance with 28 CFR §35.160. Also ensure all presentations are properly accessible to all audience members. (WP #30)

- 9.7 Finding: Not all meetings or events provide assistive listening systems as required by 28 CFR §35.149, 28 CFR §35.160. Persons speaking at a meeting or event must use a microphone if assistive listening systems are in operation.

Recommendation: Require that all meetings or events provide assistive listening systems when requested by attendees, and ensure microphones used in assistive listening systems are in operation. This includes when taking any comments from the audience. (WP #31)

- 9.8 Finding: The City does not have a meeting and event access checklist, a “best practice” in event coordination, to support staff in creating accessible access within meetings and events.

Recommendation: Provide an appropriate accessible meeting and event check list, which covers all accessibility requirements and best practices, to

event coordinators and staff. Ensure all meetings and events have accessible paths of travel per ADA Standards §302.1 unless it would fundamentally alter the event or meeting or cause an undue financial or administrative hardship. (WP #32)

10. Human Resources (HR) programs and policies

10.1 Finding: The City does have an ADA Notice of Compliance which is posted for public review. It does not address California State law, which is more stringent in many applications.

Recommendation: In recognition of 28 CFR §35.103, it is recommended that California Government Code §12926 and §11135 be included in the ADA Notice of Compliance. (WP #33)

10.2 Finding: There may not be an appropriate separation of duties between the provision of auxiliary aids and services and administering the grievance system).

Recommendation: As a means of providing oversight, ensure there is separation of duties between providing accommodations and administering the grievance system. (WP #34)

10.3 Finding: Job announcements do not inform candidates of reasonable accommodations that may be available during selection as required by 28 CFR §35.140, California Government Code §12940(a), California Government Code §12926 and California Code of Regulations §11068.

Recommendation: Include information regarding the availability of reasonable accommodation as part of all job announcements. (WP #35)

Note: Although not required by the ADA or state law, including disability organizations in applicant recruitment outreach sends a positive message regarding inclusion.

10.4 Finding: Selection panelists are not trained, as part of the panel training, regarding disability etiquette.

Recommendation: As a best practice, train selection panelists on disability etiquette and awareness. (WP #36)

10.5 Finding: No information was found regarding how employees and candidates can readily locate information regarding the City's reasonable accommodation procedure).

Recommendation: As a best practice, ensure that communication is in place regarding the City's reasonable accommodation process for employees and candidates. Ensure information addresses accommodations for essential functions, selection and receipt of benefits and privileges, including assistance in emergencies. (WP #37)

- 10.6 Finding: No procedure is in place to address employees who pose a direct threat to the health or safety of others as required by 28 CFR §35.139.

Recommendation: Create a system for the determination of direct threat using the requirement of 28 CFR §35.139(b) summarized as follows: an individualized assessment, based on reasonable judgment that relies upon current medical knowledge to ascertain the risk, the probability of injury, and ways to mitigate those. (WP #38)

Note: Direct threat may arise from other situations than a psychiatric disability. Under the regulations one would examine only direct threat to others.

- 10.7 Finding: The information made available indicates that some major resources that provide free information regarding disability and reasonable accommodation are not being used as is recommended by best practices.

Recommendation: Utilize major resources include the following: Jobs Accommodation Network (JAN) at <https://askjan.org/>, Department of Equal Employment Opportunity Commission at <https://www.eeoc.gov/> California Department of Rehabilitation, Disability Access Services at <http://www.dor.ca.gov/disabilityaccessinfo/>. (WP #39)

- 10.8 Finding: The following statement was found on a job opportunity announcement. This could exclude otherwise qualified candidates with disabilities. It appears to assume the essential functions of the job will be performed as below. For example, with reasonable accommodation a candidate who cannot stoop may be able to perform the essential job function which seems to require stooping.

Physical: Primary functions require sufficient physical ability and mobility to work in an office setting; to stand or sit for prolonged periods of time; to occasionally stoop, bend, kneel, crouch, reach, and twist; to lift, carry, push, and/or pull light to moderate amounts of weight; to operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard; and to verbally communicate to exchange information.

Vision: See in the normal visual range with or without correction.

Hearing: Hear in the normal audio range with or without correction.

Recommendation: Remove or revise this statement above and ensure selection committees are open to a variety of methods of job performance. That said, it is acknowledged that certain positions, such as Police Officer, will require vision, hearing and physical abilities. The wording should be tailored and job specific. (WP #40)

11. Capital Improvement construction policies

11.1 Finding: A CASp plan check is performed but projects are not reviewed during construction and at close out.

Recommendation: To ensure all City of Elk Grove projects have appropriate access, a CASp review should be performed at key points of construction and at close out. It is suggested that the California Commission on Disability Access "Accessibility Construction Checklist" be used as guidance for this process. This checklist may be obtained free of charge online at ccda.ca.gov. (WP #41)

12. City staff training and support

12.1 Finding: While City Facilities staff ensure furniture placement in all City-owned buildings provides access to all, there is no written policy or guidance noting accessibility requirements as defined in 28 CFR §35.149 and 28 CFR §35.160(b)(1)).

Recommendation: To ensure continuity, make guidance available to impacted staff regarding accessible furniture placement. (WP #42)

12.2 Finding: Currently, there is no system in place to document incidents involving service animals.

Recommendation: Although not required, it is recommended that the City use an incident reporting system to document service animal incidents. This step is recommended as service animal issues are common within state and local governments. A draft reporting system was submitted to the City by the consultant for consideration. (WP #43)

12.3 Finding: The City's Disability Advisory Committee has not been trained regarding the mandates the City is held to under ADA and California Government Code §11135 and §12926. This is a best practice.

Recommendation: As a best practice, provide accessibility training encompassing the ADA and California Government Code §11135 and §12926 to the City's Disability Advisory Committee. (WP #44)

12.4 Finding: As required by 28 CFR §35.133, The City shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities including, but not limited to, elevators, ramps, door openers, touch screens, lifts, and paths of travel. This maintenance falls under standard maintenance, and does not have a separate policy or procedure.

Recommendations: It is recommended to create a procedure to address the maintenance of accessible features and to train maintenance staff regarding the identification of access issues so that they can be promptly addressed. (WP #45)

13. ADA-related drug policies.

13.1 Finding: No policy was found to comply with 28 CFR §35.131 (discrimination against persons who formerly used drugs in an illegal manner, have been through a rehabilitation program and are currently not using drugs in an illegal manner)

Recommendation: Create a policy to comply with 28 CFR §35.131. (WP #46)

SECTION IV: WORK PLAN FOR THE SELF-EVALUATION IMPLEMENTATION

The City of Elk Grove ADA Self-Evaluation Work Plan ("Work Plan") is designed to be modified as progress is made. It may also be modified when work that is necessary is not identified within the body of this report. Such instances may occur pursuant to new regulations or case law developments.

The first column is the "WP" number which ties the Work Plan to the findings and recommendations in Section III of this document. The second column is legal citation or best practice related to the findings and recommendations. The third and fourth column show the findings and recommendations from Section III, which are the action items called for by this report. The remaining columns are intended to be used by the City in assigning tasks and tracking outcomes.

City of Elk Grove - Self-Evaluation Work Plan 2019

Results of the City of Elk Grove Staff Surveys and Interviews

Questionnaires were used as the basis for interviews with City staff that were knowledgeable of City operations and the subjects addressed within the questions. City staff provided responses that were reviewed by the consultant, SSA, and recommendations were made, as appropriate.

Policies that may limit or exclude the participation of persons with disabilities

NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
Respondents Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250										
1	28 CFR 35.103	No evidence was found that the City's design contracts require design professionals to use, at a minimum, the most stringent access standards in affect at the time of the project as mandated by 28 CFR35.103.	Ensure the most stringent standards are enforced by contract.							
2	28 CFR 35.136	The City does not currently have a service animal policy.	Move forward with plans to create a service animal policy pursuant to 28 CFR 35.136 and ensure City staff is trained on the new policy							
3	Best Practice	No protocol is in place to establish service animal relief areas for City produced meetings and events.	Although not required, providing a service animal relief area sends a welcoming message. We (SSA) recommend the City's service animal policy include procedures in this area.							
4	28 CFR 35.131	No policy was found to comply with 28 CFR 35.131 (discrimination against persons who formerly used drugs in an illegal manner, have been though a rehabilitation program, and are currently not using drugs in an illegal manner).	Create a policy to comply with 28 CFR 35.131							
5	Best Practice	The City's job announcement nondiscrimination statement does not list the protected classes as a best practice to promote compliance with California Government Code 12940(a)	To ensure clarity, revise job announcement nondiscrimination statement to include protected classes.							
6	Best Practice	Police Officers are trained to refer ADA complaints to the Civil Rights Division of the US Department of Justice (DOJ). They have not been trained to direct those complainants to the City employee responsible	Ensure all Police staff are aware of the Elk Grove ADA Grievance system and refer complaints to that system .							
7	28 CFR 35.139	No procedure is in place to address individuals participating in, or benefitting from, City services, programs, or activities who pose a direct threat to the health or safety of others as required by 28 CFR 35.139.	Create a system for the determination of direct threat using the requirement of 28 CFR 35.139(b) summarized as follows: an individualized assessment, based on reasonable judgment that relies upon current medical knowledge to ascertain the risk, the probability of injury, and ways to mitigate those.	Direct threat may arise from other situations than a psychiatric disability. Under the regulations one would examine only direct threat to others.						

Communication systems used by the City

NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
Respondents Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250										
8	28 CFR 35.160	City publications do not contain a notice offering them in alternative formats as needed by persons with disabilities pursuant to 28 CFR 35.160.	Ensure City publications contain a notice offering them in alternative formats if needed by persons with disabilities. Train staff on how to address requests for alternative formats when they are made							
9	Best Practice; recommended by US Department of Justice (DOJ) within the ADA, Title II, Technical Assistance Manual II-8.2000 #6	No system was found by which publications are reviewed to ensure appropriate language is used regarding persons with disabilities as recommended by the US Department of Justice (DOJ) within the ADA, Title II, Technical Assistance Manual II-8.2000 #6	As a best practice, train staff on person first language and ensure it is used when writing about persons with disabilities.							
10	28 CFR 35.161(b)	The Web Content Accessibility Guidelines (WCAG) 2.0 has not been adopted as the web access standard for the City. This standard has emerged as the standard the US DOJ will accept as effective communications.	Adopt and apply WCAG 2.							

The provision of auxiliary aids and services to members of the public who are engaged in receiving programs, services or activities from the City.

Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250									
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NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
11	28 CFR 35.160(b)(1)(2)	4.1 No evidence was found that resources for the full range of auxiliary aids and services have been identified pursuant to 28 CFR 35.160(b)(1)(2). This could result in a delay in obtaining the services when needed.	Locate and document resources for the provision of auxiliary aids and services.	The auxiliary aids needed would be dependent upon the outcome of the interactive process, pursuant to 28 CFR 35.160(b)(2) with the requester. They may include, but not be limited to; Braille, real time captioning, sign language interpreting, oral interpreting, note taking, large print, etc.						
12	28 CFR 35.160	Not all live or pre-recorded video provided by the City is captioned	Ensure all video provided by the City is captioned.							
13	28 CFR 35.160 (a)(1)	Computers accessible to the public, located in the Building Department lobby and City Clerk lobby, are not accessible to some persons with disabilities.	Add accessibility features and/or software to computers used by the public so that they are accessible to all.							

Access to emergency management for persons with disabilities

Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250									
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NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
14	28 CFR 130(b)(8); California Government Code 8593.3	Pursuant to 28 CFR 130(b)(8) and California Government Code 8593.3, no protocol was found to be in place regarding using the services of a sign language interpreter within the screen shot if a City official needs to make statements via television in crises situations.	If a City official makes a televised statement during crises situations, ensure the message is captioned or that a sign language interpreter is seen in the screen shot.							
15	Best Practice	No evidence was found that the City is using guidance from US DOJ, as a best practice, regarding emergency management for persons with disabilities.	Use the US DOJ guidance, where found reasonable and feasible, regarding emergency management and persons with disabilities.							
16	Best Practice	As part of the City's Emergency Action Plan, Emergency Coordinators have not been trained regarding the needs of persons with disabilities in emergency situations, to ensure compliance with 28 CFR 130(b)(8) and California Government Code 8593.3.	Train Emergency Coordinators regarding the needs of persons with disabilities in emergency situations using the US DOJ publications regarding emergency management for persons with disabilities as a guide.							
17	Best Practice	No evidence was found that Emergency Coordinators are part of the planning for the needs of persons with disabilities during an emergency.	Require Human Resources to notify Emergency Coordinators of any employee needing reasonable accommodation under the City's Emergency Action Plan.							
18	28 CFR 130(b)(8); CA Gov Code 8593.3	No protocols were found to ensure emergency television broadcasts are accessible to persons who are deaf or hard of hearing pursuant to 28 CFR 130(b)(8) and CA Gov Code 8593.3.	Ensure that emergency television broadcasts are accessible to persons who are deaf or hard of hearing. This can be done by having a sign language interpreter in the screen shot or by using captioning.							
19	28 CFR 130(b)(8); CA Gov Code 8593.3	The City's Emergency Management Plan does not contain procedures mitigating issues faced by persons with disabilities during emergencies, as is required by 28 CFR 130(b)(8) and CA Gov Code 8593.3.	Incorporate procedures into the City's Emergency Management Plan which address mitigation of issues faced by persons with disabilities during emergencies. The US DOJ publications regarding emergency management for persons with disabilities may be used as guidance.							
20	Best Practice	Emergency Management drills and Emergency Management Plan modifications do not include the participation of those with disabilities	As a best practice, for appropriate drills, and for plan modifications, input should be obtained on a cross-disability basis from the public and/or the City's Disability Advisory Committee							
21	Best Practice	City emergency management teams have not been trained regarding the needs of persons with disabilities during emergency events to ensure compliance with 28 CFR 130(b)(8) and California Government Code 8593.3	Train emergency management teams regarding the needs of persons with disabilities during emergency events							
22	Best Practice: EEOC guidance, <i>Fact Sheet on Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures.</i>	The EEOC guidance, titled <i>Fact Sheet on Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures</i> , regarding identifying staff who may need assistance during an emergency is not being used	At the time of hire, Human Resources should, as part of the reasonable accommodation and/or interactive process, proactively utilize the EEOC guidance as outlined in the <i>Fact Sheet on Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures</i> . Human Resources should also proactively ask staff to disclose disabilities on a voluntary basis and ask individual staff if a new disability is observed.							

Disability Awareness among City staff										
Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250									
NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
23	Best Practice	Disability Awareness Training has not been provided to all City staff pursuant to DOJ recommendations requiring 4 hours of public contact training including, but not limited to, "person-first language", service animal issues, communications, and the basic mandates of the ADA.	Provide training to all City staff that have public contact to include, but not be limited to, disability awareness, "person-first language," service animal issues, communications, and the basic mandates of the ADA.							
Policies addressing policy modification requests and the determination of fundamental alteration of programs										
Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250									
NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
24	28 CFR 35.130 (7)(i); 28 CFR 35.164 Duties.	No specific procedure was found that addresses policy modification requests and the determination of fundamental alteration as mandated by 28 CFR 35.130 (7)(i), 28 CFR 35.164 Duties.	Create a procedure to address policy modification requests Such a system should include; how requests are evaluated, what steps are taken to identify alternative forms of accommodation, how the City handles a request that would result in a fundamental program alteration, and who within the City approves the policy modification denial letter, if needed. 28 CFR 35.164 Duties states that denial letters only be authorized by City staff who have an understanding of all the resources within the organization							
Access to public meetings										
Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250 Date:									
NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
25	28 CFR 35.106; 28 CFR 150(a); 28 CFR 149; 28 CFR 35.160(b)(1)	A notice regarding the availability of auxiliary aids and services is not included in all notices regarding meetings and events pursuant to 28 CFR 35.106, 28 CFR 150(a), 28 CFR 149, 28 CFR 35.160(b)(1) and as recommended by the US Department of Justice (DOJ) within the ADA, Title II, Technical Assistance Manual II-8.2000 #4.	Create a policy that requires notices of meetings and events to include a statement regarding the availability of auxiliary aids and services for persons with disabilities.							
26	Best Practice	Staff coordinating meetings and events are not trained regarding accessibility requirements as a best practice to ensure compliance of 28 CFR 149 and 28 CFR 35.160(b)(1)	Provide accessibility training and/or guidance to meeting and event coordinators.							
27	Best Practice	There is no policy addressing service animal relief areas during meetings and event productions.	As a best practice, include procedure for setting aside, and for providing directions to, service animal relief areas for use during meetings and events in Service Animal Policy.							
28	28 CFR 149; 28 CFR 35.160(b)(1)	Event stages are not typically accessible, as required by 28 CFR 149 and 28 CFR 35.160(b)(1)	Provide accessible stages for all events using stages							
29	Best Practice	City event coordinators and staff have not been trained on providing integrated and companion seating requirements required by 28 CFR 35.138, 28 CFR 35.150(b)(1), 28 CFR 35.151(g)	Provide training to City event coordinators and staff on integrated and companion seating requirements							
30	28 CFR 35.160.	Not all video and presentations are accessible to deaf, hard of hearing, and persons who are blind.	Provide captioning and audio descriptors on all video used in public display to ensure compliance with 28 CFR 35.160. Also ensure all presentations are properly accessible to all audience members.							
31	28 CFR 35.149, 28 CFR 35.160	Not all meetings or events provide assistive listening systems as required by 28 CFR 35.149, 28 CFR 35.160. Persons speaking at a meeting or event must use a microphone if assistive listening systems are in operation	Require that all meetings or events provide assistive listening systems when requested by attendees, and ensure microphones used in assistive listening systems are in operation. This includes when taking any comments from the audience.							
32	Best Practice	The City does not have a meeting and event access checklist, a "best practice" in event coordination, to support staff in creating accessible access within meetings and events	Provide an appropriate accessible meeting and event check list, which covers all accessibility requirements and best practices, to event coordinators and staff. Ensure all meetings and							

Human Resources (HR) programs and policies										
Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250 Date:									
NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
33	28 CFR 35.103	The City does have an ADA Notice of Compliance which is posted for public review. It does not address California State law, which is more stringent in many applications.	In recognition of 28 CFR 35.103, it is recommended that California Government Code 12926 and 11135 be included in the ADA Notice of Compliance.							
34	Best Practice	There may not be an appropriate separation of duties between the provision of auxiliary aids and services and administering the grievance system.	As a means of providing oversight, ensure there is separation of duties between providing accommodations and administering the grievance system.							
35	28 CFR 35.140; California Government Code 12940(a), California Government Code 12926; California Code of Regulations 11068	Job announcements do not inform candidates of reasonable accommodations that may be available during selection as required by 28 CFR 35.140, California Government Code 12940(a), California Government Code 12926 and California Code of Regulations 11068	Include information regarding the availability of reasonable accommodation as part of all job announcements.	Although not required by the ADA or state law, including disability organizations in applicant recruitment outreach sends a positive message regarding inclusion.						
36	Best Practice	Selection panelists are not trained, as part of the panel training, regarding disability etiquette	As a best practice, train selection panelists on disability etiquette and awareness							
37	Best Practice	No information was found regarding how employees and candidates can readily locate information regarding the City's reasonable accommodation procedure.	As a best practice, ensure that communication is in place regarding the City's reasonable accommodation process for employees and candidates. Ensure information addresses accommodations for essential functions, selection and receipt of benefits and privileges, including assistance in emergencies.							
38	28 CFR 35.139	No procedure is in place to address individuals participating in, or benefitting from, City services, programs, or activities who pose a direct threat to the health or safety of others as required by 28 CFR 35.139.	Create a system for the determination of direct threat using the requirement of 28 CFR 35.139(b) summarized as follows: an individualized assessment, based on reasonable judgment that relies upon current medical knowledge to ascertain the risk, the probability of injury, and ways to mitigate those.	Direct threat may arise from other situations than a psychiatric disability. Under the regulations one would examine only direct threat to others.						
39	Best Practice	The information made available indicates that some major resources that provide free information regarding disability and reasonable accommodation are not being used as is recommended by best practices.	Utilize major resources include the following: Jobs Accommodation Network (JAN) at https://askjan.org/ , Department of Fair Employment and Housing at https://www.dfeh.ca.gov/ Equal Employment Opportunity Commission at https://www.eeoc.gov/ and California Department of Rehabilitation, Disability Access Services at http://www.dor.ca.gov/disabilityaccessinfo/							
40	Best Practice	The following statement was found on a job opportunity announcement. This could exclude otherwise qualified candidates with disabilities. It appears to assume the essential functions of the job will be performed as follows. For example, with a reasonable accommodation a candidate who cannot stoop may be able to perform the essential job function which seems to require stooping. <i>Physical: Primary functions require sufficient physical ability and mobility to work in an office setting; to stand or sit for prolonged periods of time; to occasionally stoop, bend, kneel, crouch, reach, and twist; to lift, carry, push, and/or pull light to moderate amounts of weight; to operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard; and to verbally communicate to exchange information.</i> <i>Vision: See in the normal visual range with or without correction.</i> <i>Hearing: Hear in the normal audio range with or without correction.</i>	Remove or revise this statement above and ensure selection committees are open to a variety of methods of job performance. That said, it is acknowledged that certain positions, such as Police Officer, will require vision, hearing and physical abilities. The wording should be tailored and job specific.							

Capital Improvement construction policies										
Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250 Date:									
NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
41	Best Practice	A CASp plan check is performed but projects are not reviewed during construction and at close out	To ensure all City of Elk Grove projects have appropriate access, a CASp review should be performed at key points of construction and at close out. It is suggested that the California Commission on Disability Access "Accessibility Construction Checklist" be used as guidance for this process. This checklist may be obtained free of charge online at coda.ca.gov .							
City staff training and support										
Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250 Date:									
NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
42	28 CFR 35.149; 28 CFR 35.160(b)(1)	While City Facilities staff ensure furniture placement in all City-owned buildings provides access to all, there is no written policy or guidance noting accessibility requirements as defined in 28 CFR 35.149 and 28 CFR 35.160(b)(1)	To ensure continuity, make guidance available to impacted staff regarding accessible furniture placement.							
43	Best Practice	Currently, there is no system in place to document incidents involving service animals.	Although not required, it is recommended that the City use an incident reporting system to document service animal incidents. This step is recommended as service animal issues are common within state and local governments. A draft reporting system was submitted to the City by the consultant for consideration							
44	Best Practice	The City's Disability Advisory Committee has not been trained regarding the mandates the City is held to under ADA and California Government Code 11135 and 12926. This is a best practice	Provide accessibility training encompassing the ADA and California Government Codes 11135 and 12926 to the City's Disability Advisory Committee							
45	28 CFR 35.133	As required by 28 CFR 35.133, The City shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. This maintenance falls under standard maintenance, and does not have a separate policy or procedure.	It is recommended to create a procedure to address the maintenance of accessible features and to train maintenance staff regarding the identification of access issues so that they can be promptly addressed.							
ADA-related drug policies										
Respondents	Jim Ramsey Risk Analyst / ADA Coordinator jramsey@elkgrovecity.org 916.478.2250 Date:									
NO.	CITE	FINDING	RECOMMENDATION	SSA NOTES	DATE ASSIGNED	ASSIGNED	MILESTONES	DUE DATE	TRAINING (Y/N)	NOTES
46	28 CFR 35.131	No policy was found to comply with 28 CFR 35.131 (discrimination against persons who formerly used drugs in an illegal manner, have been though a rehabilitation program and are currently not using drugs in an illegal manner)	Create a policy to comply with 28 CFR 35.131							

SECTION V: ATTACHMENTS

Attachment A: 28 CFR §35.105 Self-Evaluation

(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

(b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the Self-Evaluation process by submitting comments.

(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the Self-Evaluation, maintain on file and make available for public inspection:

- (1) A list of the interested persons consulted;
- (2) A description of areas examined and any problems identified; and
- (3) A description of any modifications made.

(d) If a public entity has already complied with the Self-Evaluation requirement of a regulation implementing §504 of the Rehabilitation Act of 1973, then the requirements of this section shall apply only to those policies and practices that were not included in the previous Self-Evaluation.

Attachment B: California Government Code §11135**§11135.**

(a) No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) The protected bases referenced in this section have the same meanings as those terms are defined in Section 12926.

(d) The protected bases used in this section include a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

Attachment C: California Government Code §12926**Cal Gov Code § 12926 (2010)****§ 12926. Definitions regarding unlawful practices**

As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached a 40th birthday.

(c) Except as provided by Section 12926.05, "employee" does not include any individual employed by that person's parent, spouse, or child or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

- (B) Written job descriptions prepared before advertising or interviewing applicants for the job.
 - (C) The amount of time spent on the job performing the function.
 - (D) The consequences of not requiring the incumbent to perform the function.
 - (E) The terms of a collective bargaining agreement.
 - (F) The work experiences of past incumbents in the job.
 - (G) The current work experience of incumbents in similar jobs.
- (g) (1) "Genetic information" means, with respect to any individual, information about any of the following:
- (A) The individual's genetic tests.
 - (B) The genetic tests of family members of the individual.
 - (C) The manifestation of a disease or disorder in family members of the individual.
- (2) "Genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.
- (3) "Genetic information" does not include information about the sex or age of any individual.
- (h) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.
- (i) "Medical condition" means either of the following:
- (1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.
 - (2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:
 - (A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.
 - (B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.
- (j) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) "Military and veteran status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, the United States National Guard, and the California National Guard.

(l) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or military and veteran status.

(m) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

- (i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
- (ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
- (iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.
- (2) Any other health impairment not described in paragraph (1) that requires special education or related services.
- (3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.
- (4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- (5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).
- (6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.
- (n) Notwithstanding subdivisions (j) and (m), if the definition of "disability" used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (m).
- (o) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or military and veteran status" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.
- (p) "Reasonable accommodation" may include either of the following:
- (1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.
- (2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of

examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(q) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. "Religious dress practice" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual observing a religious creed. "Religious grooming practice" shall be construed broadly to include all forms of head, facial, and body hair that are part of an individual observing a religious creed.

(r) (1) "Sex" includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

(2) "Sex" also includes, but is not limited to, a person's gender. "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(s) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(t) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(u) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness or administrative or fiscal relationship of the facility or facilities.

(v) "National origin" discrimination includes, but is not limited to, discrimination on the basis of possessing a driver's license granted under Section 12801.9 of the Vehicle Code.

Attachment D: City of Elk Grove Notice of ADA Compliance

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the California Fair Employment & Housing Act (FEHA), §508 of the Rehabilitation Act of 1973 (as amended), California Government Code §12926 & §11135, the City of Elk Grove will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: The City of Elk Grove 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.

Effective Communication: The City of Elk Grove will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City of Elk Grove's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people with hearing, sensory, motor, and cognitive disabilities so they can participate equally in the City's programs, services, and activities.

Modification to Policies and Procedures: The City of Elk Grove will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. *For example, individuals with service animals are welcomed in the City of Elk Grove offices, even where pets are generally prohibited.*

Anyone who requires auxiliary aids or services for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Elk Grove, should contact Jim Ramsey, ADA Coordinator, at least five working days before the scheduled event, at 8401 Laguna Palms Way, Elk Grove, CA. 95758, (916) 478-2250 (Office), (888) 435-6092 (TTY), (916) 627-4250 (FAX), California Relay 711, jramsey@elkgrovecity.org.

Neither the ADA, nor state law, requires the City of Elk Grove to take any action that would fundamentally alter the nature of its programs, services, or activities, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the City of Elk Grove is not accessible to persons with disabilities should be directed to Jim Ramsey, ADA Coordinator, at 8401 Laguna Palms Way, Elk Grove, CA. 95758, (916) 478-2250 (Office), (888) 435-6092 (TTY), (916) 627-4250 (FAX), California Relay 711, jramsey@elkgrovecity.org.

The City of Elk Grove will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy to create access.

Attachment E: City of Elk Grove ADA Grievance Procedure

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the **City of Elk Grove**. The **City of Elk Grove's** Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or their designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Jim Ramsey, Risk Analyst/ADA Coordinator
8401 Laguna Palms Way
Elk Grove, CA. 95758
(916) 478-2250 Office
(888) 435-6092 TTY

Within 15 calendar days after receipt of the complaint, **Jim Ramsey** or designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, **Jim Ramsey** or designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the **City of Elk Grove** and offer options for substantive resolution of the complaint.

If the response by **Jim Ramsey** or designee does not satisfactorily resolve the issue, the complainant and/or their designee may appeal the decision within 15 calendar days after receipt of the response to the **City Manager** or designee.

Within 15 calendar days after receipt of the appeal, the **City Manager** or designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the **City Manager** or designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by **Jim Ramsey** or designee, appeals to the **City Manager** or designee, and responses from these two offices will be retained by the **City of Elk Grove** for at least three years.

Attachment F: Contact Information for the City of Elk Grove ADA Coordinator

Jim Ramsey, Risk Analyst / ADA Coordinator

City of Elk Grove

8401 Laguna Palms Way

Elk Grove, CA 95758

TEL 916-478-2250 / California Relay 711 / TTY 888-435-6092

jramsey@elkgrovecity.org

Attachment G: Glossary of Terms and Basic Information

The following glossary of terms is designed to give a basic overview of common elements of access within the Americans with Disabilities Act, Title II, and California State law. For more specific information concerning the terms described below please review 28 CFR §35 and the California Government Code §12926.

Definition of Disability:

Under California State law, Government Code §12926, a person with a disability is: 1) A person having a physical or mental impairment that limits a major life activity. This limitation must be considered in the unmitigated status. This means that the determination of whether the limitation exists would be considered in terms of how the individual would function without the use of medication, personal devices or habits that have been formed to mitigate the disability. 2). or, A person who has a record of a disability, such as described in number one. 3). or, a person who is regarded as having a disability, such as described in number one.

Note: This is an abridged definition of disability under California State law. For further information, please see California Government Code §12926. The California definition of disability is being used, as it is more stringent than the definition found under the Americans with Disabilities Act of 1990 or the Americans with Disabilities Amendments Act of 2008.

Qualified Person with a Disability:

A qualified person with a disability has a disability as described above and is qualified to receive the programs, services or activities of the entity in question.

Self-Evaluation

A comprehensive evaluation of all programs, services and activities to ensure that access for qualified persons with disabilities is in place. The Self-Evaluation must be vetted with interested stakeholders.

Transition Plan

A physical access evaluation of all sites from which programs, services and activities are provided. The Transition Plan contains four parts: 1. A list of physical barriers; 2. A statement of method to be utilized for mitigation of barriers; 3. A statement regarding the schedule of barrier mitigation; and 4. The designation of an official who is responsible for the administration of the Transition Plan. The Transition Plan must be vetted with interested stakeholders.

Note: The intent of a Transition Plan was to create access within facilities that were constructed by 1992 and that new construction or remodels would be accessible.

Program Access

A designated alternative manner in providing programs, services and activities in order to ensure that appropriate access is in place. For example, accessible meeting space may be secured on the ground floor of the building to hold meetings with people who have mobility impairments, who are not able to go to higher floors because of the absence of an elevator.

ADA Grievance Procedure

A Grievance Procedure that is published and capable of addressing issues that may arise from access policies that impact the delivery of programs, services and activities. The Grievance Procedure must be widely disseminated, offer a second level review, notify the grievant of the outcome, state the ADA Coordinator's name and contact information and offer assistance to a person with a disability who may not be able to complete the grievance document independently due to their disability.

Notice of ADA Compliance

A Notice of ADA Compliance is a widely disseminated notice that provides information concerning the elements of ADA compliance that the entity has in place. It is recommended that the Notice of ADA Compliance be accompanied by a dissemination plan.

ADA Coordinator

This position is required for state and local government entities that have 50 or more employees. Initially, the position was envisioned to coordinate the grievance process. The national trend is that this position is now used to coordinate a variety of matters relative to ADA implementation and administration. Caution must be exercised concerning an appropriate separation of duties. It is inappropriate to have the ADA Coordinator engaged in both providing reasonable accommodations through the interactive process, and investigating issues concerning the accommodations that have been provided or denied.

Direct Threat

Direct threat is a significant risk of substantial harm that cannot be mitigated through policy modification or reasonable accommodation. The danger must be real and not speculative or remote.

Policy Modification Request and Fundamental Alteration

A qualified person with a disability may request that an entity modify its policies to create an appropriate level of access. A system must be in place for entertaining these requests and determining whether said request would result in a fundamental alteration of the programs, services and activities impacted. Should there be an inability to grant the initial request, other measures must be considered, if available, to address the access issue in question. Should it be determined that the request results in the fundamental alteration, a senior official should expeditiously sign off on the determination.

Auxiliary Aids and Services

These are measures provided to ensure that appropriate access to programs and services and activities is in place upon request. Auxiliary aids and services include, but are not limited to providing documents in an alternative format such as Braille, providing sign language interpreting services, note takers, real-time captioning services or assistive listening devices.

Video Remote Interpreting (VRI)

VRI is permitted in the 2010 Title II ADA regulations. It provides a system in which sign language interpreting can be conducted via video with the interpreter offsite. Caution needs to be exercised to ensure that the technical quality of the system is sufficient to appropriately transmit the information being communicated.

California Relay Service

The California Relay Service was created by ADA Title IV. It is a free service to facilitate effective telephone communication between deaf, hard-of-hearing and hearing people. This is done via a relay operator who uses both a teletype device and a telephone. The California Relay service may be reached at 711.

Note: Some entities have chosen to include "California Relay Service 711" on business cards and letterheads to facilitate communication.

Reasonable Accommodation

Reasonable accommodation refers to the employment relationship. It is an adjustment that provides the employee or applicant an opportunity to participate in: the performance of essential functions of the job, the selection process, or to receive benefits and privileges offered to other

employees in the work situation. Reasonable accommodation solutions often vary widely. A Reasonable Accommodation request must be handled through an "interactive process".

Interactive Process

The interactive process is required in the state law and federal case law, yet neither defines it clearly. Problems have occurred when disputes have arisen and the employer has not clearly documented the interactive process. For that reason, the following steps are recommended:

1. The employer becomes aware that there is a disability that impacts elements of the employment relationship.
2. The employer and employee/applicant meet to discuss the barrier in question and potential resolutions. In this stage, if needed, data is gathered from medical providers, consultants or the Jobs Accommodation Network.
3. After giving primary consideration to what the employee/applicant is requesting, the employer makes a prompt decision regarding what effective accommodation will be provided. Or, if the accommodation in question would result in an undue hardship the employer is not obligated to provide said accommodation.
4. The employer promptly implements the reasonable accommodation.
5. The employer initiates follow-up discussions with the recipient of reasonable accommodation to ensure that the accommodation was, in fact, effective.

Note: The Reasonable Accommodation process is ongoing and may need to be revisited at any point in the employment relationship, as disabilities and technology may change.

Medical Inquiry

Medical inquiry is the acquisition of pertinent medical information to determine whether a bona fide legal disability exists and what limitations it may present that necessitates a reasonable accommodation. Medical inquiry should be limited in scope. Data related to genetic characteristics should not be solicited, obtained or retained. Medical information may not be lawfully stored in an employee's personnel file.

Undue Hardship

An undue hardship would be the provision of a reasonable accommodation that is extensive, disruptive, fundamentally alters the nature of the program or is unduly expensive. It is important to note that the expense issue is extremely difficult for a state or local government entity to use as a defense. In doing so, one would need to consider the total budget of the entity in question.

Service Animal

A service animal is a dog or miniature horse that has specifically been trained to perform tasks for a person with a disability that they are not able to perform for themselves due to their disability.

Note: This is a subject that generates the highest number of complaints received by the US DOJ (DOJ).

Maintenance of Accessible Features Policy

This relates to the requirement set by 28 CFR §35.133 in which an entity must maintain accessible features. Policy and procedure in this area is designed to give staff guidance unifying, repairing or reporting issues within access elements on sites where programs, services and activities are conducted.