

The Americans with Disabilities Act (ADA) Self-Evaluation Report - 2017



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SECTION I: PROJECT OVERVIEW

Acknowledgement

Sally Swanson Architects, Inc. (SSA) thanks the City of Turlock staff that were very generous with their time and knowledge, without which this project would not have been possible.

Introduction

The City of Turlock 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 Turlock 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 ADA, Title II, and California Government Code 11135 and 12926. The City's employment programs are covered by ADA, Title I, the 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 Americans with Disabilities Amendment Act (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 ADA. State and Federal Laws require that the law that is the most stringent be applied.

In applying California Government Code 12926, we find these central points of coverage, when defining a person with a disability.

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. If a person has a history of a disability as described above, he or she would be protected from discrimination based upon that history.
3. If a person is regarded as having a disability, such as described in section 1 above, they would be protected.

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 Self Evaluation

The US Department of Justice within the ADA, Title II, Technical Assistance Manual recommends a scope of review for Self Evaluations, which contain thirteen programs areas for review. The 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 programs and policies;
- Construction policies;
- City staff training and support;

- ADA related drug policies.

Method of Review

The City of Turlock 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. 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.

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.

Basic ADA Policies and Response to Mandates

The policies listed below are a combination of explicitly stated requirements found in 28 CFR 35, and policies recommended by SSA to ensure appropriate compliance with Title II of the ADA.

- ▶ Status of appointment of an employee responsible for ADA Coordination: **The City is in compliance.**
- ▶ Status of ADA Transition Plan: **The City is in compliance.**
- ▶ ADA Notice of Compliance: **The City is in compliance.**
- ▶ Grievance system used to address Disability civil rights complaints: **The City is in compliance.**

SECTION II: SELF-EVALUATION QUESTIONNAIRES

ADA Self-Evaluation Questions for the ADA Coordinator

1. **Does the City of Turlock have an ADA Notice of Compliance? If yes, does it address state law? Please attach the Notice.**

Yes, the City does have a Notice of Compliance.

2. **Does the grievance system**

- a. **Offer assistance to persons with disabilities, who due to their disability are not able to independently complete the grievance?**

No

Finding: No assistance is offered to persons with disabilities in completing the grievance.

Recommendation: Amend grievance notice to include a statement offering assurance to persons with disabilities who need such assistance to complete the grievance. (Work Plan (WP) # 1)

- b. **Provide timelines when a complainant can expect a result?**

Yes

- c. **Have a second level of review?**

Yes, but only upon appeal.

- d. **Contain a notice regarding availability of the grievance system in alternative format?**

Yes

- e. **Contain the name and contact information of the ADA Coordinator?**

Yes

The Notice of Compliance does not address grievance procedures, but other documents previously approved do.

3. Are the ADA Notice of Compliance and the grievance system posted on the City's website?

The Notice of Compliance is not, but the Transition Plan, Complaint Procedures and Complaint Form

Finding: The ADA Notice of Compliance is not posted to the website.

Recommendation: Create a plan to disseminate the ADA Notice of Compliance that includes posting it on the City website. This notice must be broadly disseminated and posted in City facilities. Should be added to: <http://www.cityofturlock.org/ada> (WP 2)

4. Who handles the fact finding and grievance administration?

The ADA Coordinator

5. Does the City of Turlock have a plan for ADA Notice and Grievance dissemination?

Following the adoption of the Transition Plan in 2014 an email was sent to all City employees advising of the Transition Plan's adoption, as well as other ADA related resources. No other ADA related dissemination of information has occurred within the organization since. **Note: Please see Number 3 above and WP#2.**

6. Does the ADA Coordinators 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?

Yes, the ADA Coordinator is a department director and reports directly to the City Manager.

7. Who provides auxiliary aides and services to persons seeking accommodation under ADA Title II?

It depends on the devices/services that are being requested.

Finding: Consistency was not found regarding the provision of auxiliary aides and services.

Recommendation: Ensure that all City Departments that communicate with the public have a system in place to address the provision of auxiliary aides and services. (WP#3)

8. Who provides reasonable accommodations to applicants and employees under ADA Title I, ADAA and California Government Code 12926?

The Administrative Services Department, Human Resources Division, currently lead by Sarah Eddy.

9. Is an interactive process used? If yes, how is it documented?

10. How is undue hardship determined and by whom?

The ADA Coordinator would make that determination based on his judgment.

Note: Undue hardship must be determined based upon its nature and whether it meets the definition contained within the regulations.

11. Is there an anti-surcharge policy in place to make it clear to staff not to charge for accommodations?

That is included in the Notice of Compliance, though it is unclear if most employees know that as it is a policy that many employees may be unfamiliar with.

Finding: It is unclear as to whether all staff have an understanding of the disability civil rights mandates that the City of Turlock is held to under state and federal law, including the anti-surcharge policy.

Recommendation: Provide training to all City staff with public contact, regarding state and federal disability civil rights laws and disability awareness. (WP# 4)

12. Is contract language in place holding contractors and vendors to applicable State and Federal disability civil rights mandates? If yes, how is this enforced?

Yes, this language is a part of all of our standard agreements. It is enforced through contract oversight by the respective City employee in charge of the contract. A failure by the contractor or vendor to follow the terms of the agreement can result in the withholding of payment(s) until compliance is reached or through a claim filed by the City if necessary.

13. If a person with a disability believes they have been discriminated against by a City vendor or contractor, what steps are open to them?

The City's ADA Policy and Complaint Procedure identifies the steps that they should follow.

14. Is an accessibility plan check done when vendors are conducting tenant improvements in public services areas?

Yes.

15. Is guidance in place for City staff and vendors regarding clear space and furniture placement? If yes, please attach the guidance.

No.

Finding: No guidance is in place for City staff to assist them in accessible furniture placement.

Recommendation: Provide impacted City staff with guidance regarding furniture placement. (WP#5)

16. Are vendors/ contractors held to the City service animal policy?

Unknown

Finding: No evidence was found that contractors acting on behalf of the City are held to service animal mandates.

Recommendation: Ensure all contractors doing business on behalf of the City are aware of and held to mandates regarding service animals. (WP# 6)

17. 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.

Unknown

Finding: No services animal incident report is in place.

Recommendation: Although not required, it is advisable that a service animal incident report be put in place and used should incidents occur. (WP #7)

18. How does the City address service animal relief areas during meetings and events?

Unknown

Finding: No procedure was found to establish service animal relief areas to support City meetings and events.

Recommendation: Create a procedure by which service animal relief areas are established to support City meetings and events. (WP# 8)

19. Are all City of Turlock publications offered in alternative format?

No

Finding: City of Turlock publications are not offered in alternative format to create access for persons with disabilities.

Recommendations: A. Ensure that a system is in place to obtain documents in alternative format. B. Create a notice and place it within all City publications, informing the readers that the document is available in alternative format upon request. (WP#9)

Note: Do not create documents in advance of a request.

20. Is there notice on all public meeting announcements that auxiliary aides and services are made available as needed for meeting participants with disabilities?

City Council agenda packets include the following statement on the first page: "EQUAL ACCESS POLICY: If you have a disability which affects your access to public facilities or services, please contact the City Clerk's Office at (209) 668-5540. The City is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the City to process and respond to your request."

Other public meeting announcements, such as those released directly from a single department, lack consistency in this regard.

Findings: The City Clerk notice is a positive step. It does not clearly state how much advance notice is needed. 2. There is no consistency in the use of a statement throughout City operations.

Recommendations: A. Set a clear time line regarding how much advance notice is needed, for auxiliary aides and services, (Accommodation) i.e. two working days. B. Ensure that a notice is part of the event planning for City meetings or events. (WP#10)

21. Is disability etiquette and persons first language information available to all City employees having public contact?

No.

Finding: City staff does not have access to information regarding disability etiquette and person first language.

Recommendation: Provide training to all City staff with public contact regarding disability etiquette and person first language. It is also suggested that such training include an overview of the ADA requirements which the City is held to. (WP# 11)

22. Are City (employees?) and vendors, who have public contact trained regarding ADA requirements and disability awareness?

No

Finding: No evidence was found that vendors who provide programs, services, and activities in the shoes of the City have disability awareness information.

Recommendation: Ensure that contractors who provide programs, services or activities on behalf of the City have taken steps to ensure their staff is culturally competent. (WP# 12)

23. How are new employees oriented to etiquette, language and City's legal disability civil rights mandates?

Through the New Employee Orientation Policy

24. 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?

Yes

25. Are publications reviewed to ensure they do not portray persons with disabilities in a negative manner?

Yes

26. 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.

Interactive process? MOU Modified duty?

Finding: No evidence was found that the City has a system wide procedure in place to address policy modification requests from staff or members of the public to comply with 28 CFR 28.35 130 (b) (7)

Recommendation: Create a procedure to address policy modification requests and to determine fundamental alteration of program. (WP#13)

27. Is there a policy and procedure in place to address direct threat determination? If yes, when was it last updated? Please attach a copy of the policy.

Yes.

Finding: No procedure was found to address the determination of direct threat as required by 28 CFR 35.139.

Recommendation: Create a procedure for the determination of direct threat. (WP#14)

29 Is there a system in place to regarding maintenance of accessible features? If yes, please attach.

Yes, the City maintains a work order system by which infrastructure deficiencies are logged and reported for repairs. All barriers to access that are non-maintenance related are logged in an accessibility database.

Finding: No system was identified to address maintenance of accessible features as required by 28 CFR 35.133

Recommendation: Create a procedure to address maintenance of accessible features and train impacted staff requiring its application. (WP# 15)

30. 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?

The City has a “Safety Information” tab on our Intranet for reporting safety concerns, as well as, an anonymous Tip Line that is monitored by Human Resources. Reminders about those sites are sent out to city staff frequently by the Central Safety Committee.

31. Has maintenance staff been trained to identify access and safety issues?

Yes

Note: The safety system could be expanded to address the maintenance of accessible features. (WP# 16)

32. If “Program Access” solutions are used to create access are they approved by the ADA Coordinator before they are put in place?

Yes, though this is not defined or clarified anywhere

Finding: No formal system is in place for the ADA Coordinator to approve and track the use of program access solution.

Recommendation: Create a system which allows the ADA Coordinator to approve and track the use of program access solutions. (WP#17)

33. When “Program Access” solutions are put in place are they documented by a written procedure to ensure City staff implements them appropriately?

This has not yet occurred, so there is not documented history of what actions staff performs. As such, it is unlikely that staff would be aware of a procedure to follow.

Note: Please see the finding and recommendation on this subject directly above.

34. 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?

Yes, the City’s contracted transit provider, First Transit, does do each of those.

35. Does the City have or need a policy addressing motorized mobility devices? If yes has it been updated as required by 28 CFR 35.137?

No, we do not have a policy for these devices.

Finding: No policy is in place regarding the use of motorized mobility devices. In discussions with City officials it was felt that such a policy would make a positive contribution to public safety.

Recommendation: Create a policy to address the use of motorized mobility devices, if needed. See 28 CFR 35.135. (WP#18)

- 36. When the purchase of new equipment is made, (purchases including, but not limited to communication and transportation equipment) how are access requirements addressed?**

Access requirements are addressed both prior to purchase and after the purchase is delivered. Before the purchase is made the purchaser will review the specifications to make sure that accessible compliance is provided. Following delivery and inspection the purchaser will ensure that the equipment matches the necessary requirements, including accessibility.

- 37. Does the City operate any programs, services or activities from a registered historic site? If yes, please list the sites.**

No.

- 38. Have the City of Turlock law enforcement officers received disability awareness training, such as the US DOJ role call videos?**

Not roll call videos. Officers have reviewed departmental policy regarding ensuring people with disabilities have proper access and are communicated with appropriately. We have also had training in how to communicate with hearing impaired individuals.

Finding: In discussions with Turlock Police Department, training needs were noted and resources' for appropriate training was identified.

Recommendation: Provide law enforcement training. (WP# 19)

- 39. How is access monitored during City related projects during planning and construction?**

Access is monitored in the planning and design phase through plan review and development of a temporary traffic control plan, which includes elements for motor vehicles, pedestrians and bicyclists. Access is monitored during construction through on-site inspections by a public works inspector.

Note: It is suggested that the City use the "Accessibility Construction Inspection Checklist" created by the California Commission on Disability Access. This checklist can be downloaded free of charge at ccda.ca.gov. (WP# 20)

- 40. 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 or four hour training covering ADA requirements and disability awareness. How is the City of Turlock informing impacted staff of the City's responsibilities and disability awareness?**

We are not.

Finding: No system is in place to provide City staff with disability awareness information.

Please see item 21 above. (WP# 11)

- 41. 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?**

In addition to general training for all employees to cover core compliance issues, specific training should be provided to those that conduct public meetings, as they will likely run into unique issues that not only employees will need to deal with. In addition, the ADA Coordinator should go through training regarding his specific roles and responsibilities.

Finding: Improve staff ADA training program.

Recommendation: At minimum, the ADA Coordinator should have training once per year, meeting and event planners should be trained, as already noted within, law enforcement should be trained and City staff having public contact as well as those staff who serve as part of the emergency management team. City managers and supervisors should receive an orientation to the outcome of this report. (WP# 21)

- 42. Are there areas, not noted above that you feel should be studied within this self-evaluation?**

No

- 43. Does the City of Turlock have a policy in place that prohibits discrimination against persons who formerly used drugs illegally?**

No

Finding: No evidence was found that a policy is in place to meet the requirements under 28 CFR 35.131, discrimination against former drug users. Recommendation: Create a policy to comply with 28 CFR 35.131, discrimination related to former drug use. (WP# 22)

44. How are reasonable accommodations for City volunteers handled?

Same as full time and part time employees.

45. Does the City of Turlock 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?

Acknowledged on an annual basis

46. Does the City list “711 the California Relay” on business cards and letter heads?

The Fire Dept. lists a TDD (209) 668-1207 phone number on our business cards.
HR – The TDD number is listed on business cards and letterhead

Note: The term “TDD” has been replaced with “TTY”

Finding: City business cards do not provide persons who are deaf or hard of hearing with contact information.

Suggestion: Although not required by law, placing the “California Relay 711” information on City business cards does send a welcoming message. (WP# 23)

47. Are there other items you wish to add?

No

Thank you for your insights, time and assistance.

Name: Michael Pitcock, P.E. Date: 4/17/16
Position: Development Services Director / City Engineer
Location: Turlock City Hall
Email: mpitcock@turlock.ca.us
Telephone: (209) 668-5520

ADA Self-evaluation Questions for Law Enforcement

1. **Have the City of Turlock first responders been trained regarding the disability civil rights mandates that the City is held to under State and Federal laws?**

No

**Finding: City Police have not received training regarding disability civil rights.
Recommendation: Provide training to City Police regarding disability civil rights and its impact on law enforcement. Please see (WP#21).**

2. **Have holding and booking areas been reviewed for access since the 2010 ADA Standards for Accessible Design became effective?**

Yes our temporary holding facility was built / completed in 2013 and is ADA compliant.

3. **If visitor areas are offered, are they accessible?**

N/A as a visitor area is not offered

4. **If inmate phone systems are provided is there a phone system for inmate's who are deaf or hard of hearing?**

There is a phone available for detainees use however there is not one set up for hearing impaired individuals.

**Finding: No phone system is in place for detainees with hearing impairments.
Recommendation: Establish an accessible telephone system for detainees who are deaf or hard of hearing. (WP # 24)**

5. **When arrests are made, how are service animals dealt with?**

If release on a citation is available then that would be an option. If booking is required then we can try and get service animals placed with a caretaker approved by the arrestee. Animal services is always an option as well. We are currently in the process of adopting a Service Animal policy however the arrest scenario is not specifically addressed.

Finding: No procedure is in place to define how service animals will be dealt with after their owner's arrest.

Recommendation: Create a procedure to define how service animals are to be dealt with after their owner's arrest. Ensure that if they are housed at the animal shelter that they are exempt from euthanasia. (WP # 25).

6. When arrests are made, how are medical appliances (canes, walkers, hearing aids, oxygen tanks, etc) addressed?

Our policy states "that while it may present officer safety or logistical problems to allow subjects to retain medical equipment such as wheelchairs, any removal of such items would require reasonable accommodations be made for these individuals to allow for access to services. This can be made through alerting jail staff / medical services at the jail. Specifically, hearing aids should be allowed to remain with in custody subjects and the jail staff should be notified.

Note: See Armstrong vs. CDCR regarding this issue.

7. How are power wheelchairs, scooters and other large mobility devices transported after an arrest?

Again, if release on a citation is possible then that would solve the situation. If booking is required then we can transport these devices with a department truck to the appropriate location (agreed upon caretaker of the equipment or to property and evidence for safekeeping)

8. How are medication needs dealt with after an arrest?

Jail staff is advised of what medication a subject is taking. Typically medication is left at a safe location agreed upon by the arrestee such as their residence.

9. 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?

There are a variety of ways. Officers can use a pen and paper if the person is hearing impaired. We also have a contract with a company to provide sign language interpretation if needed.

10. How do officers communicate with persons who are Deaf?

Same as #9 Also policy states that Individuals who are deaf or hearing impaired must be given the opportunity to use available text telephones (TTY or TDD). All calls placed by such individuals through such services shall be accepted by this department.

11. Does the 911 system have TTY? If yes, how often does training occur regarding its use?

Yes. Training occurs when a new employee in the communication center is hired,

Finding: No refresher training is offered to staff that must use a TTY in emergencies.

Recommendation: If there is not a regular flow of TTY calls coming into dispatch, annual refresher training regarding the use of the TTY system may be beneficial. (WP# 26)

12. Is there a procedure in place for officers to obtain a sign language interpreter when one is needed on an emergency basis?

Yes.

13. 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)

Partially, we have had training on communicating with people who are hearing impaired. Also during field training, officers have been given training on mental disorders. Certain officers in the department have also received training on Crisis Intervention Training which teaches how to deal with individuals who are suffering from mental disorders.

Finding: In discussion with Police Officials training needs were identified and training resources were located.

Recommendation: Provide training as needed. Please see (WP#21)

14. Are there other issues you feel should be addressed in dealing with disability civil rights and your role within the City of Turlock? If yes, please explain.

N/A

Thank you for your insights, time and assistance.

Name _____ Date _____

Position _____ Location _____

Email _____ Telephone _____

ADA Self-evaluation Questions Regarding Site Specific Emergencies

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?

Finding: No evidence was found that the City has queried staff on a voluntary basis regarding their need for assistance during an emergency.

Recommendation: Ask all City staff if they wish to disclose on a voluntary basis any accommodation needs they might have in the event of an emergency. If staff discloses such a need the reasonable accommodation process must begin and the outcome may need to be shared with the impacted emergency management team members on a confidential basis. (WP# 27)

2. Do City office buildings have a visitors 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?

N/A

3. Have floor wardens been trained regarding the needs of persons with disabilities in emergency situations?

The City does have one "Stair Chair" located at city hall for use during emergencies and the fire department personnel have been trained to use it in the past.

4. If floor wardens 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.)

Each Central Safety Committee Member has a designated "Alternate" member from their department assigned to fill their role.

Finding: There are redundancies in the assignment of floor wardens, but it is not clear that impacted staff have been trained regarding the needs of persons with disabilities during an emergency.

Recommendation: If not done so to date, train emergency team members regarding the needs of persons with disabilities during an emergency. (WP# 28)

5. Has the emergency plan been coordinated with the Fire Department?

Yes

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?

Finding: No protocols were found that would be used to shut down the HVAC systems were there toxic air outside.

Recommendation: Create protocols that would be used as needed to shut the HVAC system down. (WP#29)

7. Is there a backup electrical generation system? (Consider sheltering in place and the need for water from systems controlled by motion sensors, lighting and HVAC)

Yes, for the Public Safety Facility.

8. Have there been drills of the emergency plan(s)? If yes, how often?

Yes. Fire Alarm Drills and Earthquake Drills. Annually.

9. Are persons with disabilities involved in emergency plan creation, drills and debriefings?

Yes

10. How are staff and visitors accounted for after an evacuation?

Central Safety Committee Members are assigned to evacuate and account for the personnel in their area. They use a clip board and check sheet.

11. 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)

Yes.

- 12. In response to a bomb threat, if evacuation is required, is the assembly site checked for explosives before it is populated?**

Unknown

- 13. 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?**

Yes via the Fire Department procedures and trained staff.

- 14. During shelter in place events, how are medical and medication needs addressed?**

Case by case using the employee's self- medication or using the basic first aid kits in the buildings.

- 15. Can the person in the site handling the event until the fire department arrives, communicate with the Fire Department as they are rolling to the site?**

Only via the City of Turlock dispatchers.

- 16. 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?**

There is an Emergency Plan document for the Public Safety Facility that is provided to all new employees at that site during their orientation. It is only in English at this point.

- 17. Is the whole site covered by fire alarms and strobe lights?**

Yes (For the Public Safety Facility)

18. Are exits clearly marked?

Yes, for all facilities.

19. Are back up emergency lifts in place?

Yes, for all Facilities.

20. 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?

A phone system to dispatch.

Finding: No Communication system was found within the area of safe refuge that would be accessible to persons who are deaf or hard of hearing. Recommendation: Ensure that an accessible communication system is in place for persons who are deaf and hard of hearing within the areas of safe refuge. (WP#30)

21. Are all PA systems monitored by maintenance staff to ensure the volume is high enough to be heard throughout the intended areas of impact?

Yes, tested frequently at the Public Safety Facility.

22. Are emergency evacuation chairs to be used? If yes, Consider:

a. Has staff been trained in the use of these chairs?

Yes for the "Stair chair".

b. If yes, did this training include information regarding the risks of transferring some persons with disabilities into and out of the chair?

Yes.

c. Have impacted employees with disabilities been involved with the training?

Yes.

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.)

Yes, the fire department would also work with the local ambulance providers to assist people in need.

e. Have the chairs been tested in the stair wells to ensure they can operate and turn in the space available?

Yes

f. What is the plan in the event the slow moving chairs create a back up in the stair well?

Allow others to pass.

g. Are the chairs stored close to where they will be used?

Yes

h. Are there any barriers or locks impacting ability to obtain them when needed?

Access is available during business hours and after hour events (City Council Meetings, etc.).

i. Are chair manufacturer directives, if any, regarding maintenance followed?

Yes

23. 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?

Yes. Unknown if this will work for deaf or hearing impaired people.

Finding: It is not known whether the communication system in the elevators would work for persons who are deaf or hard of hearing.

Recommendation: Test the elevator communication system to confirm that it will be effective for persons who are deaf or hard of hearing. If it is not effective in this manner, upgrade it. (WP#31)

24. Have emergency management staffs been trained regarding the variety of events that might occur and their impact on persons with disabilities?

Yes.

City Wide Events

25. Who is in command during an emergency?

Yes. The EOC Emergency Manager is the Fire Chief.

26. Is there an evacuation plan for each community?

Yes in the Emergency Operations Plan.

27. When the PIO makes press announcements regarding the incident is a sign language interpreter used?

No.

Finding: No system is in place to ensure emergency press coverage is accessible.

Recommendation: Establish protocols that require that a sign language interpreter is used and in the screen shot when any emergency information is provided by the City for television broadcast. (WP# 32)

28. Is staff trained to identify and address the needs of persons with disabilities?

Finding: No evidence was found that impacted staff has been trained regarding emergency management related to disability issues.

Recommendation: If not done so to date, train impacted staff regarding emergency management related to disability issues. (WP#33)

29. 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)

No. Only if a person with disabilities provides that information in advance.

Note: Make every effort to ensure that persons who give the City their personal information in advance do not form unrealistic expectation regarding what first responders are able to do at the time of a City wide event.

30. Has City of Turlock used the US Department of Justice guidance regarding disaster management? (Please note this can be located at ADA.gov.)

Yes and we adhere to NIMS, SIMS and FEMA Guidelines.

31. Does the City of Turlock have a reverse 911 system or some other method of communicating with sections of the City?

Yes. Currently "Hiplink".

32. If prolonged sheltering in place is necessary, is there a means of obtaining

- Accessible cots,
- Medication and medical supplies,
- Access for professionals who may arrive and be able to help,
- Feeding systems?

Yes, via "partner Agencies" such as: The American Red Cross, Salvation Army and various other Stanislaus County resources.

33. Is more than one source identified to obtain needed items? (Consider that some supply sources may have been impacted by the emergency)

Yes

34. 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)

Finding: No system was found that ensures a backup power source is in place for shelters.

Recommendation: Ensure all shelters have a backup power source, which may be needed to charge power wheelchairs, power ventilators or control temperature for persons who cannot survive in heat due to their disabilities. (WP#34)

35. Is there a policy in place regarding access to the shelter for service animals?

Yes, in the Emergency Operations Plan.

36. Is there a policy in place requiring that persons with disabilities are served in integrated settings?

Finding: No policy was found that mandates that persons with disabilities are served in integrated settings.

Recommendation: Create a policy that mandates that persons with disabilities are served in integrated settings. (WP#35)

37. Have all third parties who may provide aide, such as the American Red Cross agreed to comply with the mandates Stanislaus County is held to by ADA Title II?

Yes

38. If evacuation is needed, is a plan in place which would provide

a) Accessible vehicles,

b) Drivers,

- c) Fuel,
- d) Appropriate destination(s),
- e) Destinations?

Yes, in the Emergency Operations Plan.

39. Have various area hospitals been identified, which could accept injured persons?

Yes, routine medical emergencies, burns, pediatric and trauma centers have been identified.

40. If the evacuation of a building is necessary, how is the impacted area swept to ensure it is clear?

Police and Fire Department personnel are in charge.

41. How is new staff oriented regarding the emergency plan?

They receive a copy of the Emergency Plan for the PSF if they work at the Public Safety Facility.

42. Are drills held? If yes, do they involve different types of incidents? Please list.

Yes. Fire and Earthquake drills have been conducted.

43. Do they involve persons with disabilities?

Yes

44. Is the City ADA Coordinator involved?

Yes, the ADA Coordinator participates along with all other employees, but no, he does not generally participate in the planning or organizing of the event, nor does he consulted regarding specific drill-related accessibility concerns.

Finding: The ADA Coordinator is not involved in emergency management planning for persons with disabilities.

Recommendation: ADA Coordinator should provide guidance regarding the needs of persons with disabilities in emergencies. (WP#36)

45. Does the City of Turlock have a Disability Advisory Committee involved? If yes, are they involved in this area?

No, the City does not have a Disability Advisory Committee.

Finding: The City does not have a disability advisory committee to provide input regarding disability emergency issues.

Recommendation: Ensure that by some means input regarding disability related emergency management issues is obtained. (WP#37)

Thank you for your insights, time and assistance.

Name _____ Date _____
Position _____ Location _____
Email _____ Telephone _____

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?**

Not a written policy but maintenance staff do regular checks on all facilities and have the training to identifying and report or repair disability access and safety issues.

Finding: No formal system is in place to comply with 28 CFR 35.133, maintenance of accessible features.

Recommendations: A. To ensure compliance and continuity, create and implement a procedure to address maintenance of accessible features. B. Ensure maintenance staff is trained to identify conditions that relate to disability access and safety. (WP #38)

2. **Is access to the City owned leased space surveyed for compliance before said space is offered for lease? If so, are access barriers addressed before the lessee occupies the space?**

No not all of our facilities meet the ADA guidelines

Finding: No system is in place to address access issues within space the City may lease to third parties.

Recommendations: A. Survey each site at the point of lease initiation or renewal. B. Build access improvement into the lease if possible. C. Ensure the property is part of the City's ADA transition plan. (WP# 39)

3. **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.)**

Yes, maintenance staff are training to allow access when setting up facilities for public use

4. **Do lease agreements clearly define areas of City and tenet responsibilities regarding access?**

No

Finding: City lease agreements do not define tenant and City responsibilities regarding access requirements.

Recommendation: Ensure moving forward that all lease agreements define tenant and City responsibilities regarding access requirements. (WP# 40)

5. Are facilities surveyed to determine if access and safety is being maintained?

No all facilities meet the ADA guidelines. Facilities that do are checked.

Finding: Not all facilities are surveyed for access and safety.

Recommendation: Survey all City facilities for access and include them, as needed, in the City ADA transition plan. (WP# 41)

6. How is tenet improvement projects reviewed to determine if they create disability civil rights violations?

Finding: No system was found to survey tenant improvements.

Recommendation: Set up protocols to ensure all tenant improvements are surveyed to examine access. (WP# 42)

7. Are City equipment and furniture purchases reviewed to determine if they comply with access standards?

Finding: No system was found to ensure that purchases made by the City are reviewed in advance for accessibility.

Recommendations: A. Ensure City staff responsible for purchasing receives information regarding accessibility requirements to avoid spending public fund that result in civil rights and safety violations. B. Establish protocols for review of purchases. (WP# 43)

8. When access improvements are made, are the barriers to access that have been mitigated incorporated into the City ADA transition plan to show Turlock's good faith effort to comply with ADA?

Yes, the removal of barriers is logged in a database created by Sally Swanson Architects in 2014.

**9. 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.**

The City has a CASp project plan reviewer under contract for plan reviews.

10. When the City leases space to be used for the provision of City programs, services or activities, is a CASp inspection preformed?

Finding: No system was found that results in an access review of space that is being leased by the City to provide City programs, services or activities.

Recommendation: Ensure that all space leased by the City to provide programs, services and activities is surveyed for access before the lease agreement is signed. (WP# 44)

11. Are access barriers addressed before the City occupies the space?

Finding: No system was found that is used to ensure that access barriers are mitigated before the City occupies leased space.

Recommendation: Ensure that access issues are addressed before leased space is occupied by the City. (WP# 45)

Thank you for your insights, time and assistance.

Name _____ Date _____
Position _____ Location _____
Email _____ Telephone _____

ADA Survey for Staff Responsible for Purchasing and Service Contracts

Introduction

This document is designed to bring up a few of the general issues related to purchasing and contracting, that relate to disability civil rights compliance in state and local government. It is important to note that each business transaction must be analyzed on its own merit and that the issues raised here are typical, but not exhaustive.

General Conditions

- 1. Are all public documents related to bidding and contracting available to persons with disabilities in alternate format, if needed?**

If a valid request was submitted the City will endeavor to provide the requested document in the appropriate format. To-date I don't believe such a request has been submitted.

- 2. Are meetings related to bidding and contracting held in accessible locations?**

Yes, all meeting rooms at City Hall are accessible.

Construction and Remodel

- 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?**

Yes

- 2. Do design contracts encourage design professionals to exceed the maximum access standards when possible in ensure that contraction tolerances are built into the project?**

Yes

- 3. Is policy in place that mandates CASp inspections at key points of construction and at completion, before final payment is made?**

Yes

4. Are major public projects reviewed by stakeholders with disabilities during the planning stage?

No

Finding: No system is in place to obtain input from stakeholders with disabilities regarding major City projects.

Recommendation: To enhance the value of the project to stakeholders with disabilities, it would be advisable to obtain input from stakeholders with disabilities during planning stages. (WP# 46)

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?

Yes.

2. If a recipient of programs, services or activities via a service contract believes that their civil rights have been violated what recourse is open to them?

The ADA Complaint Procedures posted on the City's website.

3. How do the contract administrator and ADA Coordinator become aware of alleged civil rights violations? (Please discuss timelines and communication of facts.)

The person making the complaint must make contact with either the contract administrator or the ADA Coordinator. Upon receiving this information it would be shared between the two individuals with the ADA Coordinator determining the next steps to resolve the complaint.

Purchase of Items Which Have Communication Elements

1. Is there a requirement in place that mandates the purchasing agent check the market place to determine if accessible items of the type being purchased are available?

Finding: No system was found that requires purchasing agents to check the market place for accessible products before making a purchase. This could lead to a violation of California Code 11135(d).

Recommendation: Ensure a procedure is in place, which mandates that the market place is checked for accessible products before the purchase is made and the preference be given to accessible products if they are within the market place. (WP# 47)

2. Are items purchased examined to determine if they are useable 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.)

Finding: No system was found that provides information to City staff regarding access issues related to purchasing.

Recommendation: Ensure that City staff who conduct purchasing have information regarding access requirements related to purchasing. (WP# 48)

3. When questions come up regarding accessible communication purchase, are outside resources consulted (Disability Advisory Committees, Jobs Accommodation Network, local Independent living Center, etc.) before the purchase is made?

Finding: No system was found that links staff with resources to support them in making accessible purchasing.

Recommendation: Ensure City staff has access to resources that provides information regarding accessible purchasing. (WP# 49)

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 5lbs.)**

- 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?**

Finding: General purchasing does not address access information as seen in the items 1 thru 4 above.

Recommendations: Train purchasing staff. (WP# 50)

Thank you for your time and insights.

Date Submitted: _____

Department/ Division _____

Address: _____

Title _____

Contact Person: _____

Phone number: _____

Contact e-mail: _____

ADA Self-evaluation Questions for Meeting and Event Planners

1. **Is notice provided within meeting/event announcements that auxiliary aides and services (reasonable accommodations) are available as needed for persons with disabilities?**

City Council agendas. City Council meetings do list an equal access policy, but not all public meetings are noticed in a similar manner. Notices posted by an individual department may or may not be compliant.

Finding: Not all meetings and events produced by the City of Turlock have a notice regarding the availability of auxiliary aides and services for persons with disabilities in the event notice.

Recommendation: Ensure that all City of Turlock related notices regarding meetings and events contain a notice regarding the availability of auxiliary aides and services for persons with disabilities. (WP# 51)

2. **Are persons administering the meeting trained regarding the City's disability civil rights responsibilities? Not necessarily. The staff assigned to host a particular event may or may not be trained in the City's disability civil rights responsibilities.**

Finding: No system was found that ensure City staff who are hosting meetings and events have information regarding the disability civil rights mandates the City is held to by state and federal law.

Recommendation: Ensure that impacted staff receives training regarding how to produce accessible meetings and events. (WP# 52)

3. **Are meetings held on public transportation routes?**

Many meetings occur at City Hall, which is currently on a fixed-route.

Note: Although not required, ensuring that meeting and events are on a public transportation route may be a major enhancement to the access of the event. (WP# 53)

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.**

If the meeting is occurring within a facility already known to be accessible, such as City Hall, then such a review is not conducted. If a meeting is held in other facility, that level of review is likely not conducted.

Finding: No system is in place to ensure that access is checked within sites the City uses for meetings and events.

Recommendation: Check access on all sites used to host meetings and events. It is suggested a list of accessible site be maintained for this purpose. (WP# 54)

5. Are service animal relief areas identified before the meeting?

Finding: No protocols were identified to ensure that service animal relief areas are identified as part of meeting and event production.

Recommendation: Ensure that service animal relief areas are identified to support all meetings and events. (WP# 55)

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 hand hold any equipment

City council chambers are compliant

Finding: No evidence was found that when platforms, microphones and other equipment is used outside Council Chamber that it is checked for access.

Recommendation: Set procedures that result in all equipment being checked for access when it is going to be used in meetings and events. (WP# 56)

7. If video is used, is it captioned?

Finding: No evidence was found that protocols are in place that results in captioning being available in all videos used by the City.

Recommendation: Ensure that all videos used by the City are captioned. (WP# 57)

8. If video is used does it contain audio descriptors?

Finding: No evidence was found that protocols are in place that results in audio descriptors being available in all videos used by the City.

Recommendation: Rule making at the federal level is underway, which when approved is likely to mandate the use of audio descriptors. The City should start planning for this change. (WP# 58)

9. Are speakers asked to read aloud all content on PowerPoint presentations?

No, but this is generally done.

10. Is integrated seating made available with companion seating for wheelchair users?

Yes.

11. If seating is at tables, is knee clearance space checked for wheelchair users?

Yes.

12. Is high seating available for persons who have difficulty getting in and out of low chairs?

No.

Finding: High -low seating is not available at meeting and events.

Recommendation: Although not required, high-low seating does enhance access for persons who have problems getting in and out of low seating. (WP# 59)

13. Is staff trained to set up meeting rooms to provide maneuvering space for persons who use wheelchairs or service animals?

Yes, for wheelchairs, but not service animals specifically

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?

Yes, at least at City Hall in the Council Chambers (where council meetings are held).

Finding: No evidence was found that guidance is provided to City staff hosting meetings and events regarding the use of assistive listening devices.
Recommendation: Ensure that impacted staffs are trained regarding the use of assistive listening devices in meetings and events. (WP# 60)

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?

These seats would be available for those individuals if needed.

16. Are two sign language interpreters retained for meetings or event lasting more than two hours?

No

17. Are sign language interpreters and real time captioning screens positioned close to the speaker?

No

18. Are sign language interpreters under good lighting?

No

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?

No

20. If speaker cards are to be used, is staff available to assist persons with disabilities, as needed in completing the cards?

Yes, but those staff members are not specifically identified.

Note: Ensure all staff having a role in hosting a City meeting understands the importance of providing assistance as needed regarding speaker cards. (WP# 61)

21. If public comment time is limited, is the time increased for persons who have speech impairments?

No, at least not as a matter of policy.

Finding: No system was found that permits an extension of speaking time for persons with speech impairments.

Recommendation: Ensure a procedure is in place that permits a time extension on speaking time limits for persons with speech impairments. (WP# 62)

22. If events include displays, are the displays accessible and on an accessible route?

Yes.

23. Is the indoor or outdoor surface where persons with disabilities will travel smooth, stable and slip resistant?

The answer to this question varies widely based on the location.

Note: The City should not use a site for a meeting or event if the flooring does not meet access standards. (WP# 63)

24. Have transaction points been reviewed for clear space, and elevation?

Finding: No procedure was found regarding checking access to transaction points for access.

Recommendation: Ensure access to transaction points are checked for access during event planning. (WP# 64)

25. If buffet food service is part of the event, how are the needs of persons with disabilities addressed?

Finding: No protocols were found regarding providing support for persons with disabilities as needed, if buffet service is part of the event.

Recommendations: A. Create protocols for buffet food service support. B. Train impacted staff regarding issues that could arise in buffet food service regarding disability access. (WP# 65)

26. If parts of an exhibit are inaccessible due to technical infeasibility, is video with captioning used to display the exhibit?

Finding: No system is in place to create equivalent facilitation when it is not technically feasible for information or exhibits to be accessible to persons with disabilities.

Recommendations: A. Create protocols for the use of equivalent facilitation as needed. B. Train impacted staff regarding the use of equivalent facilitation. (WP# 66)

27. Does the City of Turlock have an event planning checklist to address access in meetings and event planning?

Finding: No meeting and event planning check list was found.

Recommendation: Create a meeting and event planning check list for use City wide. (WP# 67)

Thank you for your insights, time and assistance.

Name_____

Date_____

Position_____

Location_____

Email_____

Telephone_____

ADA Self-evaluation Questions for the Webmaster

1. Are all web site postings reviewed for access before they are put up?

No

2. Do all City web sites meet WCGA2.0 standards at minimum?

No

3. Have all files on City public sites been reviewed for access? If such a review is planned or in progress, please discuss it.

No

4. Have any complaints been received regarding access to any City website?

No

5. Is there a text equivalent, such as an alt tag on all non text items such as photos or graphics?

No

6. For multimedia presentations, are equivalent accessible alternatives used, which are synchronized with the presentation?

No

7. If video is used is it captioned for persons who are Deaf or Hard of Hearing?

No

8. When information is conveyed in color is the same information made available without the use of color?

No

9. Are documents organized in order that they are readable without the need for an associated style sheet?

Yes

10. Are redundant text links provided for each active region of a server-side image map?

No

11. Are row and column headers identified for data tables?

Yes

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?

No

13. Are frames titled with text for form identification and navigation?

No frames used

14. Are all pages designed to avoid the screen to flicker with a frequency greater than 2 Hz or less than 55Hz?

Unknown

15. Is the text-only page, with equivalent information and functionality?

No

16. In the content of the text only page updated at the same time the primary page in changed?

No text only page

17. Is updating addressed the same way for all City public web sites?

Yes

18. If page uses scripting languages to display content, or create interface elements, is the information provided by the script readable by assistive technology?

No

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)?

Not used

20. Does the City have computers that are used by the public? If yes, what steps have been taken to make them accessible to persons with disabilities? Issues to consider include accessible software and wheelchair access.

No City computers are used by the public

21. If electronic forms are to be filled out on line, do they work with assistive technology?

Yes

22. Have the systems discussed in questions 19 and 20 been tested by end users?

No

23. Is a system in place that allows screen reader users to skip navigational links?

No

24. 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?

No systems are in place that time out while a person is giving a response.

Finding: There is not a comprehensive access plan in place to address either 508 or WCAA 2.0 standards.

Recommendations: A. Create a plan to meet either 508 or WCGA 2.0 standards. B. Train staff as needed. C. Field test the results with end users with disabilities. (WP# 68)

Thank you for your insights, time and assistance.

Name _____
Date _____
Position _____
Location _____
Email _____
Telephone _____

References from: US Department of Justice, US Patient and Trade Make Office and the California Department of Rehabilitation

ADA Communications Questions

1. Does the City of Turlock prescribe a certain font type for City published documents? If yes, what font type is used?

Finding: Regarding items 1 and 2: Having a style writing guide is not a requirement. Using font size and type which is easy to read does enhance access to printed information created by the City.

Recommendation: Adopt a standard font size, such as 12 and clear font style such as Arial or New Roman for use in all City documents and publications. (WP#69)

2. Does the City of Turlock require a certain font size in City publications? If yes, please name the font size.

Please see item 1, directly above.

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?

Finding: No standard statement was found for use in all City publications, which announces that they are available in alternative format.

Recommendation: Create and apply a standard notice on all City publication notices that they are available in alternative format as needed. (WP #70)

4. Have City publications been reviewed to determine whether they portray persons with disabilities in a demeaning or offensive manner?

Finding: No protocols were identified whereby publications are reviewed to determine if they are demeaning and offensive to persons with disabilities.

Recommendation: Train impacted staff regarding the issues to consider when creating documents that address disability related issues for persons with disabilities. (WP# 71)

5. Have the City staffs that create publications or correspondence on behalf of the City been trained in the appropriate use of "person first language"?

Please see item 4 directly above.

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?

Finding: No evidence was identified that shows the City phone system has been examined to determine if it is accessible to persons who are deaf or hard of hearing.

Recommendation: Check the City telephone system regarding access to persons who are deaf or hard of hearing. Consider automated answering systems and menu call navigation systems. See 28 CFR 35.161-162. (WP# 72)

7. Have local resources been identified which can provide auxiliary aids for communication as needed?

Finding: No system was found that identifies local resources for use in providing auxiliary aides and services.

Recommendation: Identify local resources that can be used to provide auxiliary aides and services. (WP# 73)

8. Does the City of Turlock use any touch screen information systems for public interaction? If yes, is there an independent operating system for persons with visual impairments.

Finding: No policy was found regarding the purchase and use of touch screen systems.

Recommendation: If touch screen systems are ever used by the City, ensure they are accessible to persons who are blind and if video is used captioning is necessary. (WP# 74)

9. If videotape is used on the City website or in any other City forum, is it captioned?

Finding: No policy was found that mandates captioning of all videos on the City website.

Recommendation: Ensure all videos used on the City web site are captioned. (WP# 75)

10. Is there a policy in place for securing video remote interpreting services (VRI)?

Note: The ADA Title II regulations were revised in 2010 28CFR 35.160 (d), now provides the option of using VRI if desired.

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 ?

Finding: No evidence was found that a procedure is in place to ensure effective communication for persons who are deaf or hard of hearing during emergency broadcasts.

Recommendation: Ensure all television announcements are made with a sign language interpreter in the screen shot or captioning. (WP 32)

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?

Finding: If City computers are available to the public, nothing was submitted that provided information regarding how access is addressed.

Recommendation: If City computers are available to the public, ensure they have accessible software and are physically accessible. (WP# 76)

13. Are videos played in such places as waiting rooms, captioned for the public?

Finding: No information was submitted regarding the status of televisions used in waiting areas or lobbies.

Recommendation: If televisions are used in public places, ensure that the captioning is activated. (WP# 77)

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?

Finding: No information was submitted regarding access to PA system announcement for persons who are deaf or hard of hearing.

Recommendation: If PA systems are used ensure that a parallel system is in place that provides the same information for persons who are deaf or hard of hearing. (WP# 78)

15. When announcements are distributed electronically from City government are they sent out in PDF and Word documents simultaneously?

Finding: No information was submitted regarding access to information that is distributed electronically.

Recommendation: When information is distributed electronically, ensure that a PDR and Word file are sent out together. The word file will be more accessible to persons who are blind and using screen readers. The PDF will serve as a record of what was published. (WP# 79)

16. Given the issues noted above, are there areas where you feel training of City staff would be beneficial? If yes, please list the areas of training you have identified.

Note: The City has agreed they should provide options to provide staff training.

Thank you for your insights, time and assistance.

Name _____
Date _____
Position _____
Location _____
Email _____
Telephone _____

ADA Self-evaluation Questions Regarding Employment

A review of employment programs, services and activities is important so an employer can determine where improvements might be necessary to ensure compliance with The Fair Employment and Housing Act (FEHA), the Americans with Disabilities Act (ADA), the Americans with Disabilities Amendments Act (ADAA) and the Rehabilitation Act of 1973.

It is necessary for the reviewer to identify any employment impact that comes about or may come about due to an applicant or employee's disability.

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. Note: this is not an ADA requirement, but it does support outreach to the disability community.**

We include an outreach group to open recruitments.

2. **If the City of Turlock has a telephone job line how can persons who are deaf or hard of hearing obtain the same information? If yes, how?**

No, not at this time

3. **Are essential and marginal functions of each position identified before advertising for the position? If yes, by whom?**

Yes, by HR and the department

4. **Have requirements been checked 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.**

No, but it is a work in progress

Finding: Not all MQs have been checked to determine if they are job related and consistent with business necessity. Errors in this area could result in the disqualification of an otherwise qualified person with a disability.

Recommendations: A. Conduct a review of the MQs before conducting testing for any involved class. B. Ensure that all job classes used by the City are evaluated over time. C. Train staff as needed to address this task. (WP# 80)

- 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.**

There is an area identified on the employment application where candidates can make a request for an accommodation (s)

Finding: Two issues must be addressed; one is the offer to provide information regarding the opening in alternative format, which is addressed within this item. The second issue involves providing reasonable accommodation regarding how the selection process is administered.

Recommendation: Ensure alternative format is offered as needed, as well as reasonable accommodation regarding selection. (WP# 81)

- 6. Do job bulletins announcing openings contain statements regarding the City's nondiscrimination policy concerning persons with disabilities?**

yes

- 7. Do job announcements inform candidates that reasonable accommodations are available as appropriate during the selection process?**

yes

Note: Please see item 6 above.

- 8. How is the process discussed in number 8 carried out?**

When a request is made by a candidate, someone from HR contacts the candidates to make arrangements for the accommodation.

9. How are section activities, i.e. interview questions, writing exercises, reference checks, etc, coordinated with the essential functions of the position?

The job description is reviewed and the above mentioned are all based on the essential functions of the job.

10. What recommendations do you have for improvement of this process?

Continuous evaluation

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.

All aspects of the testing process is stated in the selection process

12. How are selection panelist trained in disability etiquette and legal question formation?

HR briefs the panel prior to every interview

13. Who ensures that selections are conducted in accessible locations?

HR

14. Is there a policy requiring that selection sites be adjacent to accessible public transportation?

No

Finding: The City does not require that selection activities are conducted near public transportation routes.

Recommendation: Although not required, ensuring that selection activities occur near a public transportation route is a best practice, as it makes the process more accessible. (WP# 82)

15. Is the City's reasonable accommodation policy posted and readily available to employees and candidates for employment?

Yes

16. Does the reasonable accommodation policy address accommodations for the performance of essential functions, the selection process and the receipt of benefits and privileges of employment?

Finding: The survey respondent was not able to provide information regarding the scope of the City reasonable accommodation policy.

Recommendations: A. The RA policy should be reviewed. B. If the policy is not consistent with the scope noted in item 17, it needs to be revised. C. In that staff is not aware of the legal scope of the City's reasonable accommodation mandate, training seems in order. (WP# 83)

17. Is assistance in completing forms regarding the reasonable accommodation process available as needed by persons with disabilities?

Yes

18. 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?

Yes

19. Does the reasonable accommodation policy require an interactive process, which includes; disability disclosure, interactive problem solving, accommodation selection, accommodation implementation and ongoing follow to ensure effectiveness?

Note: Please see item 16 above.

20. How is the interactive process documented?

Note: Please see item 16 above.

21. When a reasonable accommodation is in place and the employee is assigned a new supervisor, how is the new supervisor oriented to the accommodation(s)?

Note: Please see item 16 above.

22. Have persons responsible for the reasonable accommodation process been trained regarding the legal requirements in this area? If yes, was the training based upon the Fair Employment and Housing Act (California Government Code 11926)?

Yes

Finding: HR staffs have been trained, but are not able to address the basic reasonable accommodation issues the City is held to under ADA, Title I and California Government Code 12926.

Recommendation: A disability employment civil rights training and policy update seems in order. (WP# 84)

23. Are medical inquiries based upon need that is job related and consistent with business necessity?

Yes

24. When making a medical inquiry, does the City of Turlock inform the medical provider that genetic information is not being requested as mandated by the Genetic Information Nondiscrimination Act and the FEHA?

Yes

25. Are Workers Compensation medical records kept separate from medical records obtained to facilitate reasonable accommodations?

Yes

26. 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?

Yes

27. How do HR staff, supervisors and managers obtain information regarding the legal requirements to which the City of Turlock is held?

HR receives info from state, federal legislation and/or city attorney.

28. If you have recommendations for improvements in this area, please note them.

None

29. What outside resources have been identified to assist in the reasonable accommodation process when additional information is needed?

Department of Fair Employment and Housing (DFEH) and Equal Employment Opportunity Commission (EEOC).

Finding: HR is not using resources such as the Jobs Accommodation Network (JAN), which is free of charge and widely regarded as the best source of information in the nation concerning disability employment issues.

Recommendation: Use resources such as JAN to support the HR function. (WP# 85)

30. Is there a system in place to reassign employees with disabilities into a vacant position City wide, if effective accommodation is not possible in their current position?

Yes

31. What is the process to determine that an employee is not able to be accommodated in their current position?

Interactive process

32. Is this decision reviewed before the transfer is affected? If yes, by whom?

Yes, by the employee, HR and the department.

33. How long does the City seek a vacant position for an employee needing reassignment as a form of reasonable accommodation?

Adequate time to assist through the interactive process

Finding: It appears that a firm time frame is not in place regarding how long a search is conducted for a vacant position during a reassignment reasonable accommodation.

Recommendation: To avoid desperate treatment, establish protocols with time limits to be used during the reassignment to a vacant position reasonable accommodation. (WP# 86)

34. 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?

Note: Please see item 16 above.

35. Does the City have a policy prohibiting reassigned staff from competing for the position they are being assigned to?

Yes. It is part of the interactive process

Finding: The legal prohibition against requiring a reassigned employee within the reasonable accommodation system is reported to be tied to the interactive process. It is not advisable to interpret the legal mandates thru the interactive process.

Recommendation: Note: Please see item 16 above. (WP# 83)

36. Have emergency management teams in all facilities been trained regarding the needs for employees with disabilities during an emergency?

Yes

37. Has the guidance for employers issued by the EEOC, concerning identifying staff with disabilities that may need assistance in an emergency been used? If yes, how often is it used?

Finding: There appeared to be some misunderstanding regarding the scope and purpose of the EEOC guidance regarding identifying employees with disabilities who might need assistance during an emergency. This guidance is intended to be used for all types of emergencies that may occur in the employment setting. There are three acts an employer may take to determine if employees might need assistance during an emergency event.

1. At the time of hire, an employer may ask all incoming staff, if they would care to disclose on a voluntary basis, if they have a disability that they would want accommodation for in the event of an emergency.

2. Periodically, an employer may ask all staff, if they would care to disclose on a voluntary basis, if they have a disability that they would want accommodation in an emergency event.

3. If an employer observes that an employee has come into a disability, they may ask if the employee would need accommodation during an emergency. If at any time an employee states that they need accommodation, the interactive process must begin.

The results of the interactive process must be shared with the appropriate members of the emergency management team, and otherwise held in confidence. Recommendation: It is recommended the guidance Form EEOC be used. (WP# 87)

38. Is a statement disseminated to all staff annually putting them on notice that the City of Turlock has prohibited disability discrimination or harassment including jokes or inappropriate language?

No, not currently or annually.

Suggestion: Disseminate the policy regarding harassment prohibition annually.

39. What is the process for determining undue hardship regarding a reasonable accommodation process?

Through the interactive process

40. When considering cost of accommodation as basis for undue hardship, is the City budget as a whole considered or is the decision based upon a City Department or Division budget?

Administrative Services Director.

41. What is the process for determining direct threat?

Finding: No system was found for determining direct threat.

Recommendation: Establish a procedure to be used in determining direct threat. See 28 CFR 35.139) (WP# 89)

42. Is the City of Turlock’s Notice of ADA Compliance posted in all work sites?

Yes

43. Is the City of Turlock’s’ ADA grievance system posted in all work sites?

Finding: No evidence was found that the grievance system is posted in City work sites.

Recommendation: Post the City grievance system in City work sites or otherwise ensure that it is readily available to City staff. (WP# 90)

44. Please provided us with any ideas or suggestions you have that you believe would improve the City’s employment program for persons with disabilities.

None

Thank you for your insights, time and assistance.

Name _____
Date _____
Position _____
Location _____
Email _____
Telephone _____

Consultant Observations

Finding: The bulletin boards outside City Hall are too high to communicate information to wheelchair users or persons of short stature.

Recommendation: Ensure effective communication via bulletin boards is in place. (WP# 91)

Finding: The red phone in the Police Department lobby is not accessible to persons who are deaf or hard of hearing.

Recommendation: Install a TTY in Police Department lobby. (WP# 92)

Vetting of Self-Evaluation Results

The City is committed to the vetting of these results with stakeholders as required by law and developing an implementation plan designed to implement necessary changes and track good-faith compliance efforts.

Vetting Activity

City's Report Concerning the Self-Evaluation Vetting

- Date(s) and location(s) of vetting
- List of attendees

Input Received During Vetting

City Response to Input during Vetting

Persons Involved in Vetting

Use of This Self-Evaluation as a Living Document

The ADA requires that that a Self-Evaluation be conducted once. Many entities, including the City of Turlock, 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 emerge and case law, new regulation or the development or and 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 Turlock impacted by City operations.

City of Turlock Staff Who Contributed to this ADA Self-Evaluation

The authors of this report owe a great debt of gratitude for the support and insights provided by the City of Turlock staff that made this report possible.

Betty Gonzalez, Purchasing Coordinator

Brian White, Fire Division Chief

Carlo Grossman, Sr. Information Technology Analyst

Erik Schulze, Parks, Recreation and Public Facilities Manager

Miguel Pacheco, Police Lieutenant

Sarah Eddy, Human Resources Manager

Toni Cordell, Staff Services Technician

Wayne York, Transportation Engineering Supervisor

Work Plan for the Self-Evaluation Implementation

The following is the City of Turlock ADA Self-Evaluation work plan. It is contained in a spreadsheet 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 second column is "Recommendations". These recommendations come directly from the Self Evaluation Report. The (WP #) is intended to guide the reader in coordinating the body of the report with the work plan.

Columns titled "Staff Assigned", "Milestone Dates", "Due Dates", "Reviewed by", "Date", and Notes are designed to record progress in the implementation of the ADA Self-Evaluation.

If this is being reviewed electronically, please refer to the Excel Spreadsheet, or the ADA Self- Evaluation Work Plan.

Appendix A: 28 CFR 35.105 Self-Evaluation

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 section 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.

Appendix B: Cal. Gov. Code § 11135

California Government Code Section 11135

11135.

(a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, 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) (1) As used in this section, "disability" means any mental or physical disability, as defined in Section 12926.

Appendix C: Cal. Gov. Code § 12926

California Government Code Section 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 his or her 40th birthday.

(C) "Employee" does not include any individual employed by his or her parents, 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 for his or her expertise or ability to perform the 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) "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.

(H) "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 his or her 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 his or her 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.

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

(1) Having any mental or psychological disorder or condition, such as mental retardation, 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.

(J) "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, marital status, sex, age, or sexual orientation.

(K) "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.

(L) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the 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 (i) or (k), 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 (i) and (k).

(M) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" 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.

(N) "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.

(O) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(P) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. "Sex" also includes, but is not limited to, a person's gender, as defined in *Section 422.56 of the Penal Code*.

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

(R) "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.

(S) "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, administrative, or fiscal relationship of the facility or facilities.

HISTORY:

Added Stats 1980 ch 992 § 4. Amended Stats 1985 ch 1151 § 1; Stats 1990 ch 15 § 1 (SB 1027); Stats 1992 ch 911 § 3 (AB 311), ch 912 § 3 (AB 1286), ch 913 § 21.3 (AB 1077); Stats 1993 ch 1214 § 5 (AB 551); Stats 1998 ch 99 § 1 (SB 654); Stats 1999 ch 311 § 2 (SB 1185), ch 591 § 5.1 (AB 1670), ch 592 § 3.7 (AB 1001); Stats 2000 ch 1049 § 5 (AB 2222); Stats 2003 ch 164 § 1 (AB 196); Stats 2004 ch 700 § 4 (SB 1234).

NOTES:

Amendments:

1985 Amendment:

Added **(1)** "or her" after "employed by his" in subd (b); and **(2)** subd (i).

1990 Amendment:

Added subd (j).

1992 Amendment:

(1) Added subd (a); **(2)** redesignated former subds (a)-(d) to be subds (b)-(e); **(3)** amended the introductory clause of subd (d) by **(a)** deleting ", except as hereinafter

provided," before "includes"; and **(b)** substituting ", except as follows:" for a period; **(4)** added subdivision designation (d)(1); **(5)** added subd (d)(2); **(6)** added subd (f); **(7)** redesignated former subdivisions (e) and (f) to be subds (g) and (h); **(8)** substituted "includes, but is not limited to," for "means" in subd (h); **(9)** added subd (i); **(10)** redesignated former subd (g) to be subd (j); **(11)** substituted "disability, mental disability" for "handicap" in subd (j); **(12)** substituted subd (k) for former subd (h) which read: "(h) 'Physical handicap' includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services."; **(13)** added subds (l) and (m); **(14)** redesignated former subds (i) and (j) to be subds (n) and (o); and **(15)** added subd (p) and the last paragraph. (As amended 1992 ch 913, compared to the section as it read prior to 1992. This section was also amended by two earlier chapters, ch 911, ch 912. See *Gov C § 9605*.)

1993 Amendment:

(1) Substituted "functions" for "duties" after "Essential" both times it appears in subd (f); **(2)** deleted ", but is not limited to," after "includes" in subd (h); **(3)** deleted former subd (l) which read: "(l) '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. It is the intent of the Legislature that the definition of 'physical disability' in this subdivision shall have the same meaning as the term 'physical handicap' formerly defined by this subdivision and construed in *American National Ins. Co. v. Fair Employment & Housing Com.*, 32 Cal. 3d 603. However, 'physical disability' does not include conditions excluded from the federal definition of 'disability' pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C., § 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability."; **(4)** designated the former last paragraph in the section to be subd (l); and **(5)** substituted "of" for "or" after "size of the business" in subd (p)(3).

1998 Amendment:

(1) Amended subd (d) by **(a)** substituting the comma after "indirectly" for the semicolon; and **(b)** adding the comma after "thereof"; **(2)** substituted "that" for "which" after "organization" in subd (g); **(3)** amended subd (h) by adding **(a)** "(1) genetic characteristics, or (2)" after "include" in the first sentence; and **(b)** the second sentence; and **(4)** added "and" before "(5) the geographic" in subd (p).

1999 Amendment:

(1) Amended subd (d) by (a) substituting "of the state" for "thereof" in the introductory clause; (b) deleting subdivision designation (d)(1) at the beginning of the second paragraph; and (c) deleting former subd (d)(2) which read: "(2) 'Employer,' for purposes of provisions defining unlawful employment practices related to mental disability, means any person regularly employing 15 or more persons, or any person directly or indirectly acting as an agent of such an employer, and also includes the state and municipalities and political subdivisions of the state."; (2) substituted subd (h) for former subd (h) which read: "(h) 'Medical condition' includes (1) genetic characteristics, or (2) any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence. For purposes of this section, 'genetic characteristics' means 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 his or her offspring, or is determined to be associated with a statistically increased risk of development of a disease or disorder, or inherited characteristics that may derive from the individual or family member, that is presently not associated with any symptoms of any disease or disorder."; (3) substituted "or age" at the end of subd (j); (4) added subd (m); (5) redesignated former subds (m)-(o) to be subds (n)-(p); (6) added subds (q) and (r); and (7) redesignated former subd (p) to be subd (s). (As amended Stats 1999 ch 592, compared to the section as it read prior to 1999. This section was also amended by two earlier chapters, ch 311 and ch 591. See *Gov C § 9605*.)

2000 Amendment:

(1) Amended subd (h) by (a) adding "means" in the introductory clause; and (b) substituting "cancer or a record or history of cancer" for ", for which a person has been rehabilitated or cured, based on competent medical evidence" in subd (h)(1); (2) substituted subd (i) for former subd (i) which read: "(i) 'Mental disability' includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, 'mental disability' does not include conditions excluded from the federal definition of 'disability' pursuant to Section 511 of the Americans with Disabilities Act of 1990 (*42 U.S.C. Sec. 12211*). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability."; and (3) substituted subd (k) for former subd (k) which read: "(k) '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 an individual's ability to participate in major life activities.

"(2) Any other healthy impairment not described in paragraph (1) that requires special education or related services.

"(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) and (2).

"(4) Being regarded 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).

"It is the intent of the Legislature that the definition of 'physical disability' in this subdivision shall have the same meaning as the term 'physical handicap' formerly defined by this subdivision and construed in *American National Ins. Co. v. Fair Employment & Housing Com.* (1982) 32 Cal. 3d 603. However, 'physical disability' does not include conditions excluded from the federal definition of 'disability' pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C., Sec 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability."

2003 Amendment:

(1) Added the second sentence of subd (p); and (2) amended subd (s) by substituting (a) "The" for "the" at the beginning of subds (s)(1)-(s)(5); and (b) the period for the comma at the end of subds (s)(1)-(s)(3) and the period for ", and" at the end of subd (s)(4).

2004 Amendment:

Substituted "Section 422.56 of the Penal Code" for "Section 422.76 of the Penal Code, except that, for purposes of this part, the reference in that definition to the "victim" shall mean the employee or applicant and the reference in that definition to the "defendant" shall mean the employer or other covered entity or person subject to applicable prohibitions under this part" in subd (p).

Appendix D: Notice of Compliance

City of Turlock
Notice of Compliance under ADA & California State Law
City of Turlock
Notice of Compliance under ADA & California State Law

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA) of 1990, the Americans with Disabilities Amendments Act of 2008, the Fair Employment & Housing Act (FEHA), California Government Code Section 11135 and other applicable codes, the City of Turlock does not discriminate against individuals on the basis of disability in its services, programs or activities.

Employment: The City of Turlock does not discriminate on the basis of disability in its hiring or employment practices and will comply with the Fair Employment and Housing Act, as well as Title I of the ADA, including the regulations promulgated by the U.S. Equal Employment Opportunity Commission (EEOC), including the requirement to provide reasonable accommodations.

Effective Communication: The City of Turlock will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities, including sign language interpreters, documents in Braille and other alternate formats, to ensure information and communication is accessible to people who have speech, hearing, vision, or cognitive impairments so they can participate equally in the City's programs, services and activities.

Modification to Policies and Procedures: The City of Turlock will make reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to participate in all of its programs, services and activities. For example, individuals with service animals behaving within applicable standards are welcome in offices and City facilities, even when pets are generally prohibited.

Anyone who requires auxiliary aides and services for effective communication, or a modification of policies or procedures to participate in a program, service or activity in the City of Turlock, should communicate with the responsible Department contact as soon as possible, but no later than **48 hours** before the scheduled event.

Neither the ADA nor state law requires the City of Turlock to take action that would

fundamentally alter the nature of its programs, activities or services or impose an undue financial or administrative burden. Complaints that a program, activity or service of the City of Turlock are not accessible should be directed to:

ADA Coordinator: Michael G. Pitcock, P.E.
Director of Development Services/City Engineer
156 S. Broadway, Suite 150, Turlock, CA 95380
Voice: (209) 668-5520 ~ Fax: (209) 668-5563
TTY: (800) 735-2929 ~ Email: mpitcock@turlock.ca.us

The City of Turlock will not place a surcharge on a particular individual with a disability or a group of individuals with disabilities to cover the cost of providing auxiliary aids and services or making a reasonable modification to a policy to create access.

Appendix E: City of Turlock ADA Grievance Procedure

Grievance Procedure under ADA or California State Disability Civil Rights Laws

This grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"), the Americans with Disabilities Amendments Act (ADAAA) and California State law. It may be used by anyone wishing to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs or benefits by the City of Turlock. The City's Disability Discrimination 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 the complainant and location, date and a description of the problem(s). The City's Grievance Procedure form is available online at <http://www.cityofturlock.org/ada> or at Turlock City Hall, 156 S. Broadway, Ste. 150, Turlock, CA 95380. Alternative means of filing a complaint, such as personal interviews or a tape recording the complaint, are available to persons with disabilities upon request.

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

ADA Coordinator: Michael G. Pitcock, P.E.
Director of Development Services/City Engineer
156 S. Broadway, Suite 150, Turlock, CA 95380
Voice: (209) 668-5520 ~ Fax: (209) 668-5563
TTY: (800) 735-2929 ~ Email: mpitcock@turlock.ca.us

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his designee will schedule a meeting with the complainant to discuss the complaint and possible resolutions. After an investigation and review the ADA Coordinator will respond in writing, and where appropriate, in an alternative format accessible to the complainant. The response will explain the City's position on the issue and offer options for substantive resolution of the complaint.

If the response by ADA Coordinator does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the City Manager.

After receiving the appeal, the City Manager or his designee will review the appeal and the ADA Coordinator finding. Within a reasonable period, after a review, the City Manager or his designee will respond in writing, and where appropriate, in an alternative format that is accessible to the complainant, with a final resolution to the complaint. All written complaints received by Michael G. Pitcock or his designee, appeals to the City Manager or his designee, and responses from these two offices will be retained by the City for at least three years.

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA) of 1990, the Americans with Disabilities Amendments Act of 2008, the Fair Employment & Housing Act (FEHA), California Government Code Section 11135 and other applicable codes, the City of Turlock does not discriminate against individuals on the basis of disability in its services, programs or activities.

Employment: The City of Turlock does not discriminate on the basis of disability in its hiring or employment practices and will comply with the Fair Employment and Housing Act, as well as Title I of the ADA, including the regulations promulgated by the U.S. Equal Employment Opportunity Commission (EEOC), including the requirement to provide reasonable accommodations.

Effective Communication: The City of Turlock will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities, including sign language interpreters, documents in Braille and other alternate formats to ensure information and communication is accessible to people who have speech, hearing, vision, or cognitive impairments so they can participate equally in the programs, services and activities.

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Neither the ADA, nor state law requires the City of Turlock to take action that would fundamentally alter the nature of its programs, activities or services or impose an undue

financial or administrative burden. Complaints that a program, activity or service of the City of Turlock are not accessible should be directed to the

Michael G. Pitcock, P.E., ADA Coordinator
Development Services Director/City Engineer
156 S. Broadway, Suite 150, Turlock, CA 95380
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The City of Turlock will not place a surcharge on a particular individual with a disability or a group of individuals with disabilities to cover the cost of providing auxiliary aids and services or making a reasonable modification to a policy to create access.

Appendix F: ADA Coordinator

Contact Information for the City of Turlock ADA Coordinator:

Michael G. Pitcock, P.E., ADA Coordinator
Development Services Director/City Engineer
156 S. Broadway, Suite 150, Turlock, CA 95380
Voice: (209) 668-5520 ~ Fax: (209) 668-5563
TTY: (800) 735-2929 ~ Email: mpitcock@turlock.ca.us
California Relay 711

Appendix G: Glossary of Terms

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 Section 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. The Self-Evaluation was due in 1993.

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 an official who is responsible for the administration of the transition plan. The transition plan was due in 1992. The transition plan must be vetted with interested stakeholders.

Note: The intent was to create access within facilities that were online in 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 the second floor because of the absence of an elevator.

ADA Grievance Procedure

A grievance process 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, 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 persons who are deaf and hard of hearing and persons who are hearing. This is done via a relay operator who uses both a teletype devices 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 letter heads to facilitate communication.

Reasonable Accommodation

Reasonable accommodation technically 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. 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 alter 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 Department of Justice

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.