

# MAYOR'S OFFICE ON DISABILITY AND OFFICE OF SMALL BUSINESS CONCEPT PAPER: PARTNERSHIP TO DRIVE ACCESSIBILITY AND INCLUSIVITY BEST PRACTICES IN LOCAL BUSINESSES

October 2024

## Introduction

San Francisco has a unique approach to making sure that the small businesses in the City are accessible to patrons with disabilities. Even though the Americans with Disabilities Act has modest requirements for public businesses that were built before 1990, San Francisco goes further and has required that people with disabilities be able to get into the front entrance. This program, the Accessible Business Entrance program (“ABE”), has been successful with 82% of affected small businesses participating. However, the ABE only addresses physical accessibility.

At this point, we recommend that the City’s overall focus be expanded to develop productive relationships between the small business community and the disability community to bring about inclusivity and accessibility in many different respects, not only for people with mobility disabilities.

## City’s Primary Focus on Physical (Structural) Access and Enforcement

The ABE was codified in Chapter 11D of the Building Code in 2016 to establish a framework for a program under the Department of Building Inspection (“DBI”) to bring a broader set of property and business owners into compliance with the accessibility standards of the California Building Code and, to the greatest extent feasible, the federal Americans with Disabilities Act within proscribed timelines.

The program has been extremely successful, with 16,505 out of 23,504 businesses now compliant with Chapter 11D requirements (including waived and exempted businesses); and an additional 2,871 are on the track towards compliance after having submitted a checklist. That means that a little over 82% of businesses are or are in the process of becoming compliant with Chapter 11D requirements.

However, 4,128 (or approximately 18%) of businesses have not responded to DBI’s extensive outreach efforts to date (which include 10 rounds of letters and postcards in four

different languages, and numerous outreach events). At this point we believe that many of the remaining nonresponsive businesses are operated by small business owners who lack substantial financial resources to comply with accessibility requirements.

As a next step, the City is moving to extend Chapter 11D for a sixth time so that DBI can begin enforcement action against the remaining noncompliant businesses. Enforcement efforts will require a significant amount of time and DBI resources, and will include the following steps:

1. A Notice of Violation (NOV) will be sent
2. Inspectors will attempt to make contact regarding the NOV, including personally visiting the businesses
3. Warning letters are issued
4. Director's Hearing is scheduled
5. Director's Hearing is held
6. Order of Abatement is issued
7. Ability to Appeal Order of Abatement
8. Order of Abatement is sent to the Assessor-Recorder's Office to place a lien on the property

## Recommendation for Moving beyond Enforcement to Achieve Outcomes

At this point the City is at a crossroads and must determine the best use of its limited resources to make the most impact towards accessibility.

It can continue with enforcement action against these local small businesses. However, this will overwhelm DBI's capacity and cause substantial delays to other building code enforcement (including accessibility inspections in new businesses). It will also result in the closure of hundreds if not thousands of our local neighborhood small businesses, and inevitably pit the communities against each other as has been the case in the past.

Alternatively, the City can pivot its focus and resources toward more effective strategies to strengthen outreach, education and support of our small businesses to foster accessibility, inclusivity and community partnerships.

**The Office of Small Business and Mayor’s Office on Disability recommended that the enforcement provisions of the ABE program be sunset so that DBI can redirect resources towards its inspections processes to more effectively work with property owners on accessibility improvements.** Specifically:

- Provide an enhanced level of training for all inspectors on accessibility so that all inspectors are identifying and correcting accessibility requirements in the field.
- Hire a dedicated Certified Access Specialist (CASP) inspector in the DBI’s Inspection’s Division to support staff and provide guidance and expertise.
- Working with the Office of Small Business, develop educational materials for permit applicants on accessibility requirements.
- Enhance DBI’s website to provide more information and guidance for accessibility complaints.

**DBI will be required to report to the Mayor’s Office on Disability (“MOD”) on its progress on these four initiatives after six months, and then again to the Board of Supervisors and MOD with a review of DBI’s efforts and the outcomes after twelve (12) months (six months after the report to MOD).**

## Accessibility Beyond the Front Door

The ABE program was a response to a series of accessibility lawsuits that targeted small businesses in San Francisco. Small businesses complained, often in the media, that they were forced to settle the lawsuits because they couldn’t afford private legal representation. Many disability advocates have mixed feelings about the lawsuits; on the one hand they want businesses to be accessible. Yet they do not want to be regarded as potential litigants whenever they visit a small business, and they do not want small business owners to be hurt. The media has oversimplified the story into a conflict between the disability community and small businesses. In reality, people with disabilities might be small business owners themselves and most people with disabilities appreciate the vibrant neighborhoods in San Francisco with many small businesses and they appreciate the difficulties of successfully running a small business. Accessibility can be a powerful strategy that can bring additional customers into a small business and create strong customer loyalty. It does not need to be a source of strain on a small business.

The accessible business entrance program focuses on one aspect of accessibility: physical access. There are many other types of accessibility that can open up opportunities for people with many different kinds of disabilities such as vision, hearing, cognition and less

visible health conditions. Focusing instead on accessibility in this broad sense and emphasizing inclusivity for all often does not require costly building improvements and can be achieved through different modes of communication, such as large print menus, and with staff training.

Under the leadership of the Office of Small Business (“OSB”) and MOD, and with active participation from many disability organizations and individuals, the following concepts could be developed into programs:

### **1. Support and Training for Small Businesses**

- Expanding outreach and training with community relationships
- Create an Accessibility Best Practice Guide
- Create an educational training video

### **2. Public Messaging and Communications**

- Let’s reframe accessibility – beyond just physical accessibility and instead focus on inclusivity and accessibility for all
- Campaigns to promote:
  - Accessibility benefits everyone
  - Tips and advice to interact with persons with disabilities (PWD)
  - A guide for businesses with tips
  - Accessibility beyond physical accessibility
  - Awareness of all the different types of disabilities and accessibility needs for each of them
- A social media campaign to highlighting innovative ways some businesses have made their businesses more accessible

### **3. Involvement of Disability Community**

- Short interviews with exemplary business owners recorded by PWD
- Train accessibility coaches with disabilities to train business owners
- Offer training led by PWD for businesses
- Survey PWD about how a business can be more user friendly when they aren’t accessible
- Customers with disabilities recognizing and recommending accessible businesses as a way to inspire other businesses to do the same.

## Initiatives - Project Goals over the Next Year:

- Best Practice Guide for disability inclusion that addresses communication disabilities, web accessibility, autism spectrum, cognitive disabilities, as well as mobility disabilities. MOD will serve as the lead agency.
- Short videos that explain and illustrate disability inclusion in the context of specific types of businesses (i.e., restaurants, stores, entertainment) with spokespersons with disabilities. OSB will serve as the lead agency, with subject matter support from MOD and the disability community.
- Social media campaigns inviting people with disabilities to submit their own short videos. OSB will serve as the lead agency, with subject matter support from MOD and the disability community.
- Newsletter articles in the Small Business Newsletter based on specific best practices from the checklist and/or interviews with customers with disabilities. OSB will serve as the lead agency, with subject matter support from MOD and the disability community.
- Discuss campaigns and strategies on disability inclusion with the Mayor's Disability Council (MDC) and Small Business Commission (SBC).
- Name of the initiative and logo or sticker to show participation. OSB and MOD will partner on this.
- Executing the deliverables described above will be done by a working group coordinated by OSB.

**OSB and MOD will report back to the Board of Supervisors after twelve (12) months with information on their initiatives and successes.**

## Partners

- OEWD
- OSB
- MOD
- ADM
- DAS
- MDC
- SBC
- Disability Organizations, including but not limited to:
  - Lighthouse for the Blind
  - Independent Living Resource Center
  - Community Living Campaign

- Business Councils and Merchant Associations
- Visit SF/Travel SF