

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
GEORGIA ATLANTA DIVISION**

LAUREL LAWSON, JAMES CURTIS,
and JAMES TURNER, on behalf of
themselves and other similarly-
situated persons,

v.

CITY OF ATLANTA, GEORGIA,

Defendant.

Civil Action File No.

1:18-CV-02484-SDG

CONSENT DECREE

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I. BACKGROUND

A. Plaintiffs in this matter are Laurel Lawson, James Curtis, and James Turner (collectively the “Plaintiffs”) and a class of persons similarly situated (the “Class,” as defined below). Defendant in this matter is the City of Atlanta (“the City”), a public entity. The City and the Plaintiffs shall be referred to in this Consent Decree individually as a “Party” and collectively as the “Parties.”

B. Each of the Plaintiffs is a resident of or frequent visitor to the City of Atlanta (“the City”) and is a person with a mobility disability.

C. Plaintiffs’ Amended Complaint [Doc. 12] alleges that the City has failed to maintain its pedestrian rights-of-way to such an extent that their condition constitutes the denial of the benefit of services, programs, or activities to persons with mobility disabilities in violation of Title II of the ADA, 42 U.S.C. § 12132 (the “ADA”), and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 (the “Rehabilitation Act”). Specifically, Plaintiffs allege that, throughout the City, sidewalks are broken, uneven, improperly constructed, improperly maintained, obstructed by trees, utility poles, and construction; and curb ramps and curb cuts are missing, broken, or constructed in a way that fails to comply with the ADA.

D. The City answered the Plaintiffs’ allegations, asserting Affirmative Defenses and denying liability under the ADA or Section 504.

E. This case was delayed for a considerable period of time as a direct result of the COVID-19 pandemic. The pandemic resulted in the closure of many City offices and agencies and most, if not all, necessary employees were working remotely and engaged in matters related to the pandemic and its effects on the City.

F. On January 28, 2021, the Parties filed a joint motion for conditional class certification [Doc. 73] and stipulated to the following:

1. It is impracticable to join all individuals with disabilities recognized by the ADA and Rehabilitation Act who will be users of the City's sidewalks and other public rights of way (referred to herein as the "Class"); there are questions of law and fact common to the Class; the claims of the Plaintiffs are typical of the claims of the Class; and the Plaintiffs will fairly and adequately protect the interests of the Class; and

2. In addition:

- a. The prosecution of separate actions by individual members of the Class would create a risk of: (A) inconsistent or varying adjudications with respect to individuals which would establish incompatible standards of conduct for the City, or (B) adjudications with respect to individual members of the Class which would as a practical matter be dispositive of the

interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; and

b. The City has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the class as a whole.

G. Pursuant to the Parties' stipulation, on April 22, 2021, this Court conditionally certified this case as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b). [Doc. 75]. The Court conditionally certified the following class of persons: *All persons with mobility impairments who have been denied equal access to pedestrian rights of way in the City of Atlanta as a result of the City's policies and practices with regard to repair and maintenance of its pedestrian rights of way.*¹ This Court stated that certification is conditional upon the plaintiffs demonstrating at a hearing to consider approval of settlement that all of the prerequisites to a class action set forth in Federal Rule of Civil Procedure 23(a) have been met and that this action is maintainable as a class action pursuant to Federal Rule of Civil Procedure 23(b)(1) or 23(b)(2). This Court held that, upon the Parties' motion to approve a settlement, this Court would conduct a hearing to: (1) Make a final

¹ Subsequent to the conditional certification, the Parties modified the definition of the Plaintiff class as set forth in Paragraph V.B. of this consent decree.

determination with respect to whether this action may be maintained as a class action; (2) Review and determine the merits of any objection to the settlement; (3) Determine whether to approve the settlement as fair and reasonable, adequate and in the best interest of the class; (4) Grant a fee award to class counsel; (5) Determine whether to enter a Final Judgment Approving Settlement; and (6) Determine such other matters as may be appropriate. This Court granted the Parties' request for a 180-day stay period in order to conduct discovery and work toward a settlement.

H. During the pendency of negotiations between the Parties' and the course of this action, the City, Plaintiffs and Class Counsel (as defined below) undertook informal and formal discovery and engaged in extensive discussions regarding a potential resolution and settlement of the alleged claims. As a result of such discussions, the Parties now wish to resolve this Action by the terms set forth in this Consent Decree.

I. This Consent Decree is designed to resolve any and all claims that were asserted in this action on behalf of individuals with Mobility Disabilities for declaratory and injunctive relief with respect to the City's pedestrian rights-of-way being in violation of the ADA and Section 504. This decree is expressly intended to assure that no further lawsuits for these claims for declaratory and injunctive

relief may be maintained at any time during the Term of this Consent Decree, and that the City will not be subject to conflicting judgments regarding compliance with the ADA, Section 504 or any other applicable federal laws with respect to the City's pedestrian rights-of-way throughout the Term of this Decree. This decree is not meant to resolve claims that were not asserted in this action for individual relief for personal injury related damages alleged as a result of defective rights of way.

J. In agreeing to the terms of this Consent Decree, the City does not admit that it has violated or failed to comply with or has any liability to Plaintiffs or the Class under any provisions of the ADA or Section 504. This Consent Decree and its terms and provisions shall not be offered or received as evidence for any purpose whatsoever against the City in any action or proceeding, other than a proceeding to enforce the terms of this Consent Decree.

K. Section titles and other headings contained in this Consent Decree are included only for ease of reference and shall have no substantive effect.

II. DEFINITIONS

For purposes of this Consent Decree, the following terms have the following definitions:

A. “Accessibility Laws” means all state and federal laws and regulations requiring, promoting, and/or encouraging equal or improved access to persons with disabilities (including, without limitation, the following: Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, *et seq.*, and all of its implementing regulations and design standards²; and the Rehabilitation Act of 1973, 29 U.S.C. § 794, *et seq.*, and all of its implementing regulations and design standards; Georgia Code § 30-3-1. *et seq.*, and all of its implementing regulations and building codes and standards.

B. “Accessibility Standards” shall mean the (Proposed) Public Right-of-Way Accessibility Guidelines (“PROWAG”), developed by the United States Access Board (the “Access Board”),³ 36 C.F.R. Part 1190 and Appendix to 36 C.F.R. Part 1190, 79 FR 44664 (July 26, 2011), and attached hereto as **Exhibit A**, except that for pedestrian rights-of-way elements not covered by PROWAG, these terms shall refer to the 2006 Department of Transportation ADA Standards for Transportation Facilities (“DOT ADA Standards”) and the Department of Justice 2010 ADA Standards for Accessible Design for Title II Facilities (“2010 ADA

² The term Accessibility Laws is also intended to include 42 U.S.C. §§ 12102 and 12103, as amended.

³ Also known as the Architectural and Transportation Barriers Compliance Board (“ATBCB”).

Standards”) ⁴ where appropriate. If and when PROWAG is adopted as an enforceable regulation, the regulation shall become the Accessibility Standards.

C. “ADA” when used without a modifier(s) means Title II of The Americans with Disabilities Act of 1990 as amended in 2009, 42 U.S.C. § 12131, *et seq.*

D. “ADA Coordinator” means the individual employee(s) the City designates pursuant to 28 C.F.R. § 35.10 7(a) to coordinate its efforts to comply with and carry out its responsibility not to discriminate against persons with disabilities under Title II of the ADA.

E. “Alteration(s)” means a modification to streets, roadways, or highways as set forth in the U.S. Department of Justice/U.S. Department of Transportation Joint Technical Assistance on Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing (“DOJ-DOT Joint Guidance on Curb Ramps”) found at <http://www.ada.gov/doj-fhwa-ta.htm> and <http://www.ada.gov/doj-fhwa-ta-glossary.htm>, and Questions & Answers:

⁴ The 2010 ADA Standards is comprised of Title II ADA regulations at 28 C.F.R. § 35.151; and 36 C.F.R. part 1191, appendices B and D (the 2004 ADAAG).

Supplement to DOJ-DOT Joint Guidance on Curb Ramps found at <http://www.ada.gov/doj-fhwa-ta-supplement-2015.htm>.

F. “City Council” means the Atlanta City Council.

G. “Class Counsel” means collectively the law firms of Radford & Keebaugh and Parks, Chesin & Walbert, P.C.

H. “Complaint Process” means the process by which the City receives complaints from the residents of Atlanta regarding accessibility-related barriers in the PPROW within the City’s current “3-1-1” system and how those complaints are routed and handled by DOT.

I. “Dispute(s)” means any dispute relating to any violation of or failure to perform any of the provisions of this decree and/or disputes between the Parties concerning the interpretation, implementation, monitoring, compliance, and modification of the Decree. All Disputes will be resolved using the Dispute Resolution Procedure outlined below.

J. “DOT” means the Department of Transportation for the City of Atlanta.

K. “DOT Grievance Procedure” means a procedure to address appeals from Class members who previously submitted complaints regarding accessibility barriers in PROW through the City’s 3-1-1 system and contend that the repair or

project still does not comply with this Consent Decree or is taking longer than the complainant believes it should.

L. “Effective Date” means and refers to the date on which the Court grants Final Approval of this Consent Decree.

M. “Fairness Hearing” means the hearing to be held by the District Court, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, to determine whether the terms set forth in this Consent Decree should be approved.

N. “Mobility Disability” means any physical or mental impairment that substantially limits a person’s major life activity of ambulating, including, but not limited to a person’s ability to walk, maneuver around objects, or to ascend or descend steps or slopes consistent with the definition of “disability” under Section 302 of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, 12102(2), and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 705(20), 794(a). A person with a Mobility Disability may or may not use a wheelchair, scooter, “other power-driven mobility device” as defined in 28 C.F.R. § 35.104, crutches, walker, cane, brace, orthopedic device, or similar equipment.

O. “Public Right-of-Way” or “PROW” means any street, avenue, boulevard, highway, sidewalk or alley or similar place that is, in whole or in part, owned, maintained or controlled by the City.

P. "Pedestrian Public Right(s)-of-Way" or PPROW means any sidewalk, crosswalk, curb, curb ramp, walkway, undercrossing, overcrossing, or other pedestrian pathway or walk of any kind that is, in whole or in part, owned, maintained or controlled by the City.

Q. "Related Entities" means any and all departments, divisions, agencies, bureaus, commissions, offices, corporations, commissioners, officers, employees, agents, representatives, board members, officials, assigns, assignors, attorneys, affiliates, predecessors, successors, employee welfare benefit plans, pensions, or deferred compensation plans (and their trustees, administrators, and other fiduciaries) of the City and any other person or entity acting or purporting to act by, through, under, in concert with or on behalf of the City, including but not limited to contractors and subcontractors with the City, with respect to the matters described in this Decree.

R. "Self-Evaluation" means the self-assessment required of public entities under Title II of the Americans with Disabilities Act and 28 CFR § 35.105.

S. "Term" means the term of this Decree which begins with the date of Final Approval and will expire twenty-five (25) years thereafter, unless earlier terminated by the court, upon motion establishing substantial compliance with the

terms of this Consent Decree, or as extended under provisions of this Consent Decree.

T. “Transition Plan” means the transition plan required under Title II of the Americans with Disabilities Act and 28 CFR § 35.150(d).

U. “Transition Plan for Sidewalks” means a transition plan devoted to accessibility of the pedestrian use portion of the City’s Public Rights-of-Way and may be a separate plan or a plan incorporated into the City’s Transition Plan.

V. “WCAG” means version 2.1 Levels A and AA of the “Web Content Accessibility Guidelines” published by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C).

III. JURISDICTION

The United States District Court for the Northern District of Georgia has personal jurisdiction over the Parties and the subject matter jurisdiction over this action. The Amended Complaint asserts facts and claims that, if proven, would authorize the Court to grant the relief set forth in this Consent Decree. Venue is proper in this Court. All claims resolved by this Consent Decree shall be dismissed with prejudice upon the Effective Date of this Consent Decree. This Court shall retain jurisdiction of the Action during the Term of the Consent Decree for the purpose of entering all orders that may be necessary to implement

the relief provided for and enforce any obligations herein.

IV. NON-ADMISSION

A. No Admission of Liability

By consenting to this decree, the City does not admit any wrongdoing or liability to Plaintiffs, or any entitlement by Plaintiffs to any relief under any claim upon which relief is sought in any of their Complaints in this or any other matter. Inclusion of obligations or requirements in this Consent Decree shall not be construed as a concession or admission by the City, nor shall it be construed as a finding or determination by the District Court that, absent this Consent Decree, the City would otherwise have such obligations or requirements. Any references in this Consent Decree to policies and/or procedures to be enforced by the City shall not be construed as implying any admission that the City has failed to abide by any of these policies or procedures in the past. The City asserts that it is, and has been, in full compliance with the Accessibility Laws.

B. No Findings of Liability or Wrongdoing

The Court makes no findings of any liability or wrongdoing by the City. In addition, the District Court makes no findings that the City, (i) acted intentionally to discriminate against persons with disabilities; (ii) acted with reckless disregard

of the rights of persons with disabilities; or (iii) acted in any manner that would support a finding that the City is liable for damages under the Accessibility Laws.

C. Purpose of Parties' Consent

The City and Plaintiffs consent to this Consent Decree in order to avoid the cost, expense, and uncertainty of protracted litigation; to preclude any and all claims that were or could have been asserted in this action on behalf of individuals with Mobility Disabilities for declaratory and injunctive relief with respect to the City's pedestrian rights-of-way being in violation of the ADA and Section 504 during the Term; and to obtain the relief provided herein. The Parties agree that it will be binding upon the City, Plaintiffs, and all members of the Class, and will constitute the final and complete resolution of all claims raised in the Amended Complaint, subject to the conditions precedent in Section V.A. below.

V. APPROVAL PROCESS

A. Conditions Precedent

This Consent Decree is conditioned upon, and will be effective only upon, the occurrence of each and every one of the following events:

1. The Consent Decree has been approved by the City Council.
2. The Consent Decree has been fully executed by the Parties.

3. Plaintiffs and the City have jointly moved for an order granting Preliminary Approval of the Consent Decree, and such motion has been fully granted by the Court.

4. Plaintiffs and the City have jointly moved for Final Approval of the Consent Decree and entry of the Judgment.

5. A Final Approval Hearing has been conducted by the District Court, and the Judgment has been entered by the District Court and has become Final.

B. Class Definition

The Parties jointly moved, and the Court granted a motion to conditionally certify a class of persons with mobility disabilities pursuant to Rule 23(b)(2). During the process the Parties have undertaken to reach a settlement, they have determined that the definition of the class, as conditionally certified, underrepresents the class of persons who the class representatives represent, and who are or will be the beneficiaries of this lawsuit and resulting Consent Decree. Accordingly, the Parties agree, and the Court orders, that the definition of the Class for final certification shall be as follows:

All persons who have, or will have, a Mobility Disability and who have been or will be denied equal access to pedestrian rights of way in the City of

Atlanta at any time up through the expiration of this Consent Decree as a result of the City's policies and practices with regard to design, installation, repair, and maintenance of its pedestrian rights of way.

C. Court Approval

This Consent Decree will be subject to approval by the District Court. However, nothing in this Consent Decree will be deemed to authorize the District Court to change or modify any of its terms. Any change, modification or rejection of any of the provisions of this Consent Decree by the District Court or any other court will constitute a material modification of this Consent Decree, will prevent the Judgment from becoming Final, and will nullify the agreement set forth herein in its entirety.

D. Preliminary Approval by the District Court

Within fifteen (15) days of fully executing the Consent Decree, the Plaintiffs and the City will jointly submit a request to the District Court for Preliminary Approval of this Consent Decree, along with a request for an order from the District Court (substantially in the form attached to this Consent Decree as **Exhibit B**) (the "Preliminary Approval Order"): (i) preliminarily approving this Consent Decree; (ii) certifying the Class; (iii) appointing the Plaintiffs as class representatives for the Class; (iv) appointing Class Counsel to represent the Class;

(v) directing notice to the Class as provided in this Consent Decree; (vi) setting forth procedures and deadlines for comments and objections as provided in this Consent Decree; (vii) scheduling a Fairness Hearing; and (viii) enjoining Class members from asserting or maintaining any claims to be released by this Consent Decree pending the Fairness Hearing.

E. Notice to Settlement Class

The Parties will jointly request approval by the District Court of notice to the Class. Following the District Court's issuance of the Preliminary Approval Order, the Parties will provide notice of the proposed Consent Decree, advising the members of the Class of the terms of the proposed Consent Decree and their right to object to the proposed Consent Decree. This notice will be published as follows:

Within thirty (30) days after the District Court has issued the Preliminary Approval Order, the City will cause notice of the settlement to be published for four (4) consecutive weeks in the following papers of general circulation: *The Atlanta Journal-Constitution*, in English and Spanish, *The Fulton County Daily Report*, in English and Spanish, *The Champion Newspaper*, in English and Spanish, and *Mundo Hispanico*, in Spanish. Such notice will include the terms required by the District Court, which are anticipated to be as follows: (i) a brief statement

describing the lawsuit, the settlement embodied in this Consent Decree, and the claims released by the Class; (ii) the date and time of the Fairness Hearing and/or Final Approval Hearing of the proposed Consent Decree; (iii) the deadline for submitting objections to the proposed Consent Decree; and (iv) the web page, address, and telephone and fax numbers that may be used to obtain a copy of the Notice of Settlement (substantially in the form attached to this Consent Decree as **Exhibit C**) in English and Spanish, or alternative accessible formats for individuals with visual impairments. The City will pay the costs for the publication of the notice described in this Section.

1. Within twenty (20) days after the District Court has issued the Preliminary Approval Order, the City will cause a copy of the Notice of Settlement to be posted and remain posted on the City's official website (www.atlantaga.gov) for four (4) consecutive weeks. The website will also make a copy of the Notice of Settlement available in English and Spanish, and in an accessible electronic format that can be recognized and read by software commonly used by individuals with visual impairments to read web pages. All pages or content on these websites that are part of the process for accessing the information in the Notice of Settlement will comply with WCAG. The City will pay the costs for the publication of the notice.

2. Within ten (10) days after the District Court has issued the Preliminary Approval Order, Class Counsel will cause a copy of the Notice of Settlement to be provided to the disability rights organizations listed on **Exhibit D** to this Consent Decree. The City will pay for the costs associated with this notice.

3. Within twenty (20) days after the District Court has issued the Preliminary Approval Order, Class Counsel will post on its website a copy of the Notice of Settlement in English and Spanish, and in an accessible electronic format that can be recognized and read by software commonly used by individuals with visual impairments to read web pages. In addition, Class Counsel's website will provide information about how Settlement Class Members may obtain a copy of the Consent Decree in English and Spanish. All pages or content on the websites that are part of the process for accessing the information in the notice will comply with WCAG.

4. The Consent Decree will be provided in alternative formats upon request to the ADA Coordinator, free of charge. The City will bear any costs associated with same.

F. Media Communications

After the full execution of this Consent Decree, the Parties and their respective counsel may issue a press release and discuss the terms set forth in this

Consent Decree with the media but will use their best efforts to refrain from disparaging the other Parties or their counsel in connection with the settlement and the matters set forth in this Consent Decree.

G. Fairness Hearing

No earlier than 90 days after entry of the Preliminary Approval Order, the District Court will schedule and conduct a Fairness Hearing to decide whether Final Approval of the Consent Decree will be granted. At the Fairness Hearing, the Parties will jointly move for entry of the Judgment (substantially in the form as attached to this Consent Decree as **Exhibit E**), providing for: (i) final approval of this Consent Decree as fair, adequate, and reasonable; (ii) final certification of the class; (iii) final approval of the form and method of notice of the Judgment to the class; (iv) final approval of the appointment of Class Counsel for the class; (v) final approval of the appointment of Plaintiffs as class representatives; (vi) final approval of the release of the City from the Released Claims; (vii) final approval of an order that the class members will be enjoined and barred from asserting any of the Released Claims against the City following entry of Judgment and up to and including the completion of the Term; (viii) the Parties and all members of the class to be bound by the Judgment; and (ix) the District Court's retention of jurisdiction over the Parties to enforce the terms of the Judgment throughout the Term of this

Consent Decree. The Fairness Hearing will take place at a date to be set by the Court, allowing for a period of notice to the Class as the Court may direct. The Court will provide auxiliary aids and services (e.g., sign language interpretation) at the fairness hearing, upon request.

H. Objections to the Consent Decree

Members of the class will have an opportunity to object to the proposed Consent Decree but may not opt-out. The Parties will request that the District Court order the following procedures for assertion of objections, if any, to the Consent Decree:

1. Any class member may object to this Consent Decree by filing, within sixty (60) days of the Preliminary Approval Order, written objections with the District Court, with a copy of such objections served concurrently on Class Counsel by messenger delivery, FedEx or other overnight carrier delivery, or by First Class U.S. Mail delivery, and/or appearing at the Court's Fairness Hearing and speaking to the Court.

2. With respect to any and all objections to this Consent Decree received by Class Counsel, Class Counsel will provide a copy of each objection to counsel of record for the City, by messenger delivery or electronic-mail delivery, within two (2) business days after receipt of such objection.

3. Responses by Class Counsel and/or the City to any timely-filed objections will be filed with the District Court no less than five (5) days before the Fairness Hearing, or as otherwise ordered by the Court.

I. No Opt-Out

Pursuant to Federal Rule of Civil Procedure 23(b)(2), no Class member may opt out of any of the provisions of this Consent Decree.

J. Final Approval

Upon Final Approval of the Consent Decree, the Court shall enter final judgment under Rule 54(b) of the Federal Rules of Civil Procedure dismissing the lawsuit with prejudice, subject to the Court retaining jurisdiction to resolve any Dispute regarding compliance with the Consent Decree that cannot be resolved through the Dispute Resolution Procedure detailed herein and to resolve any motion for attorneys' fees and costs.

Should the District Court deny the Parties' request to enter the Judgment, should this Consent Decree not receive Final Approval by the District Court for any reason, or should this Consent Decree not become Final for any reason in accordance with its terms: (i) this Consent Decree will be null and void and of no force and effect; (ii) nothing in this Consent Decree will be deemed to prejudice the position of any of the Parties with respect to any matter; and (iii) neither the

existence of this Consent Decree, nor its contents, will be admissible in evidence, referred to for any purpose in any litigation or proceeding, or be deemed an admission by the City of any fault, wrongdoing or liability.

K. Effect of Final Approval Order

This Consent Decree, upon Final Approval, will (i) be binding upon the City, Plaintiffs, and all Class members and, to the extent specifically set forth in this Consent Decree, upon Class Counsel; (ii) will extinguish all Released Claims; and (iii) will constitute the final and complete resolution of all issues addressed herein. This Consent Decree is the complete and final disposition and settlement of any and all Released Claims.

L. Enforcement of Consent Decree

Nothing in this Decree, express or implied, is intended to or shall confer upon any person or entity not a Party to this Decree any right, benefit or remedy of any nature whatsoever under or by reason of this Decree. Only the Plaintiffs and Class Counsel may seek to enforce the terms of this Decree through the Dispute Resolution Procedure detailed herein. To the extent individual members of the Class have complaints regarding the City's compliance with the terms of this Decree, they must bring them to the attention of Class Counsel, who shall have

the sole and complete discretion to seek to enforce any right, benefit, or remedy under or by reason of this Decree.

The District Court will have continuing jurisdiction over this Decree throughout the Term.

VI. RELEASES

A. Release of Claims through Term

Effective upon the entry of Judgment by the District Court, all named Plaintiffs and the class members (and their respective heirs, assigns, successors, executors, administrators, agents and representatives) (“Releasing Parties”), in consideration of the relief set forth herein, release the City from any and all claims for injunctive or declaratory relief, relating to the subject matter of the litigation, including but not limited to claims that arise under the Accessibility Laws, that are alleged or that could have been alleged in the litigation that any Plaintiff Class Member had, has, or will have against the City from the Effective Date through the Term (the “Released Claims”).

Such Released Claims, however, shall not include any claims to enforce the terms of the Consent Decree or any claims for relief arising from the City’s violation of any term of the Consent Decree. Such released claims shall not include claims for individual relief for personal injuries or property damage

resulting from non-ADA compliant rights of way. This release of claims will not apply to claims based on accessibility barriers that remain in existence after the expiration of the Term.

The foregoing release is freely and voluntarily given by Releasing Parties, who, in agreeing to the foregoing release, did not rely on any inducements, promises or representations by the City or its representatives, other than as expressly set forth in this Consent Decree.

VII. RELIEF

A. Self-Evaluation of the DOT's Programs that Provide, Construct, Maintain, and Repair Pedestrian Rights-of-Way

1. General

The City will prepare an updated Self-Evaluation of DOT's programs that provide, construct, maintain and repair the pedestrian use portions of the Public Rights-of-Way ("ATL-PPROW Program") in order to determine elements in the PPROW that are not accessible and usable by persons with mobility-limiting impairments as determined by their lack of conformance to the Accessibility Laws and Accessibility Standards thereby warranting inclusion in the Transition Plan for Sidewalks; and, to determine whether there are deficiencies of a non-structural nature in the City's ATL-PPROW Program, including deficiencies with program access. The City may elect to have a qualified City employee (or contract

employee) with or without the assistance of a third-party accessibility consultant, or may engage the services of a third-party accessibility consultant, to perform the self-evaluation. The third-party accessibility consultant shall only be required until the Self-Evaluation is completed.

2. Accessibility Standards Applicable to PPROW

The City shall adopt PROWAG as its standard for accessibility with regards to PPROW. To the extent any of the standards or guidelines making up the Accessibility Standards have conflicting technical specifications, if PROWAG contains technical specifications corresponding to the element and context being considered, then the provisions of PROWAG shall govern for the purposes of the Self-Evaluation. If PROWAG does not contain technical specifications that correspond to the element and context being considered, the Self-Evaluation will evaluate compliance with the technical specification for the corresponding element in the DOT ADA Standards.

3. Scope of DOT's Self-Evaluation Update

The purpose of updating DOT's Self-Evaluation is to guide the update of its ATL-PPROW program and survey of DOT's programs, activities, and services relating in any material way to accessibility of the PPROW (the "Accessibility Survey"). The Self Evaluation shall identify all programs, activities, and services

provided by DOT to create, improve and/or maintain accessibility in the PPROW including the physical elements of the PPROW. The Self Evaluation shall review DOT's services, activities, and program's policies and procedures to ensure that they provide an equal opportunity for people with disabilities to use and enjoy the PPROW. The Accessibility Survey shall include a survey of DOT's facilities, including but not limited to the PPROW itself, to determine whether there are physical barriers to access the PPROW and whether structural or non-structural changes are required for the removal of such physical barriers. For the purposes of the Self-Evaluation, the portion of the Accessibility Survey that relates to the PPROW shall be the ARCADIS Survey that has already been performed by the City, supplemented by the manual PPROW survey performed by Peter A. Combs between January 8 and February 16, 2020 to the following areas: Inman Park, Downtown/Five Points, West Midtown,⁵ Old Fourth Ward, and Vine City. The Self-Evaluation shall include an assessment of barriers to accessibility of existing corridors in the PPROW as identified in the ARCADIS Survey for the purpose of inclusion in the Transition Plan or other appropriate remedy.

⁵ The area referred to as "West Midtown" shall be defined as the area bounded by Ponce de Leon Ave NE on the South, the Eastside Beltline Trail/Interim on the East, the CSX rail corridor on the North, and I-75 on the West.

The Accessibility Survey will be limited to those locations over which the City has control and will not include locations within the exclusive jurisdiction of Fulton or DeKalb Counties, or within the exclusive jurisdiction of the Georgia State Department of Transportation. The Accessibility Survey will include identification of fixed barriers to accessibility in PPROW where the barriers are caused by other (non-City) public entities or utilities, including, but not limited, to utility poles, electric or internet utility boxes, as well as fixed barriers caused by private property owners that exist at the time the Accessibility Survey was performed.⁶

While the City is not responsible for barriers installed by other public entities or utilities with exclusive jurisdiction or substantial control over the relevant portions of the PPROW, the City shall maintain a policy to mandate that utility companies and other non-City entities do not install barriers in the PPROW. In instances in which these entities install barriers in the PPROW, the City will take reasonable measures to enforce its policy when it receives notice of such barriers. Such reasonable measures shall include, but not be limited to requesting that these entities remove or relocate said barriers and pay the cost of creating alternative routes. The City shall not be in violation of this Consent Decree or in violation of

⁶ Non-fixed barriers in the PPROW are addressed elsewhere in this Consent Decree.

28 C.F.R. § 35.151 (New Construction and Alterations) for barriers in the PPROW installed by non-City public entities or utilities for whom which City control over their activities in the PPROW is preempted by law. However, such actions taken by (and barriers in the PPROW created by) such non-City public entities and utilities shall not relieve the City of its obligation to maintain program accessibility in the PPROW.

Upon notice, the City shall remain obligated to create alternate routes in the event the City cannot get the barrier removed, to ensure compliance with the Accessibility Laws.

The City will provide notice on its website to members of the public on how to contact utilities regarding obstructions.

This agreement does not bar Class members from seeking legal or equitable relief against said entities for creating barriers to accessibility.

4. Survey Tool or Manual

The survey tool or manual to be used to assist in the preparation of the Self Evaluation shall include, but is not limited to, the ARCADIS Survey and references including the Federal Highway Administration's Access for Individuals with Disabilities under Section 504 of the Rehabilitation Act and Title II of the ADA Desk Reference, the Federal Highway Administration's Access for Individuals

with Disabilities under Section 504 of the Rehabilitation Act and Title II of the ADA Handbook, the Department of Transportation's Frequently Asked Questions Regarding the ADA, the Department of Transportation's Memorandum the Clarification of FHWA's Oversight Role in Accessibility, and the Department of Transportation's Design Guidance Accommodating Bicycle and Pedestrian Travel: A Recommended Approach.

5. Progress Reports of the Self-Evaluation

The City shall commence its Self-Evaluation within ninety (90) days of the entry of this Consent Decree. The City will produce written reports describing the progress of its Self-Evaluation every 90 days beginning 180 days after entry of this Consent Decree. Said reports will be approved by the DOT ADA Coordinator and provided to the Monitor and Class Counsel. The DOT ADA Coordinator or his/her designee shall be responsible for communications with the Monitor and Class Counsel regarding the content of the report. The report shall describe the methods used to conduct the Self-Evaluation and shall specify the portions of the PPROW evaluated during the preceding 90 days and provide a reasonable projection as to the anticipated completion of the Self-Evaluation, as well as general cost estimates of bringing the PPROW examined during that period into compliance with the Accessibility Standards. The City shall make available to

Class Counsel and the Monitor the underlying data supporting the content of the written report through some reasonable means, e.g., providing inspection access to the City systems storing such data, or by storing said data on a shared server. Progress reports regarding the Self-Evaluation shall be required until Self-Evaluation is completed.

6. Public Comments on Self-Evaluation

During the Self-Evaluation process, DOT will place a link prominently on its website to a form in which a person can submit comments related to DOT's Self-Evaluation. The comments shall be incorporated into the Self-Evaluation as appropriate.

B. Transition Plan for Sidewalks

1. Content

The Transition Plan for Sidewalks shall contain, at a minimum, (a) the purpose of the Transition Plan for Sidewalks; (b) a general overview of how the City intends to address the physical barriers that limit the accessibility of the ATL-PPROW Program, including in residential areas, to individuals with mobility disabilities; (c) a schedule, which will be updated as progress is made, for taking the necessary steps to achieve compliance with Title II of the ADA and Section 504 as it relates to the accessibility of the ATL-PPROW, including identification of the

projected interim steps that will be taken during each year of the transition period;

(d) updated annual targets for the removal of barriers to the accessibility of the ATL-PPROW Program which may be measured by, among other means, the linear feet of pedestrian corridors to be repaired or replaced, numbers of curb cuts and curb ramps installed, and pedestrian crossings to be repaired or installed; and

(e) the name and contact information of the official responsible for the plan's implementation. For illustrative purposes only, attached as **Exhibit F** is a sample spreadsheet containing the general topics that will be included in the Transition Plan for Sidewalks. The Transition Plan for Sidewalks shall not be required to contain plans for accommodating special City or unscheduled events causing pedestrians to encounter changes to or detours around the path of travel (such as permitted events, festivals, parades, or construction).

The Transition Plan for Sidewalks shall not require structural changes to be made to elements whose configurations are inconsistent with the corresponding elements in the Accessibility Standards if the program of PPROW, when viewed in its entirety, is or can be made accessible by means other than structural changes to such elements, such as alternate routes; any such instances will be noted in the Transition Plan, along with a description of how the program of PPROW will remain accessible.

However, the City shall update its policies, practices and procedures for accommodations related to the PPROW for special City events and construction projects as set forth elsewhere in this Consent Decree.

2. Accessibility Consultant

The City may, at its discretion, contract with a third-party accessibility consultant to assist it with the preparation of a Transition Plan for Sidewalks to bring the sidewalks in the ATL-PPROW Program into compliance with the Accessibility Laws and Accessibility Standards. The third-party accessibility consultant assisting the City with its Transition Plan for Sidewalks may be (but does not have to be) the same accessibility consultant assisting the City with its Self-Evaluation to the extent the City chooses to utilize an accessibility consultant to assist it with its Self-Evaluation. The City shall notify Class Counsel in the event it contracts with an accessibility consultant, including the name and qualifications of the consultant. Class Counsel may not object to or provide unsolicited comments regarding the City's contracting decision.

3. Prioritization for Installation, Repair or Replacement

The Transition Plan for Sidewalks shall provide a prioritization schedule for removal of barriers to accessibility within the ATL-PPROW Program. Removal of barriers shall include repair or replacement of conditions causing physical

barriers, or ensuring a physical barrier does not limit or defeat the program accessibility of the PPROW by, for example, creating alternate routes. Removal of barriers to accessibility in the PPROW shall be in accordance with the priorities outlined in 28 C.F.R. § 35.150(d)(2)⁷ except as otherwise set forth in this Consent Decree. The schedule set forth in the Transition Plan for Sidewalks shall generally set forth the following prioritized locations:

- i. Specific PPROW corridors located within Inman Park, Old Fourth Ward, Five Points, Vine City, and West Midtown, which were areas identified by the Plaintiffs as allegedly having barriers in the PPROW.
- ii. The PPROW corridors in areas identified in the 2022 TSPLOST Project List,⁸ attached hereto as **Exhibit G**.
- iii. Selected PPROW corridors providing accessible pedestrian access to MARTA stations.
- iv. Selected PPROW corridors providing accessible pedestrian access to certain bus stops that are selected after receiving input from the Plaintiffs, Class Counsel, public comments, and City staff.

⁷ 28 C.F.R. § 35.150(d)(2) states that a public entity shall give priority to walkways serving... State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

⁸ TSPLOST means Transportation Special Purpose Local Option Sales Tax.

- v. PPROW corridors serving state and local government offices, and PPROW corridors serving areas containing places of public accommodation and employment, prioritized after receiving input from the Plaintiffs, Class Counsel, public comments, and City staff.
- vi. Barriers to accessibility of the PPROW in PPROW corridors not expressly described in subparagraphs VII.B.3.(1-5) above shall be removed or otherwise addressed upon receipt of notice by the City, through its 3-1-1 system or otherwise, or at such time as the affected corridor undergoes an alteration performed by the City for any reason. Alterations to the PPROW, when they take place, shall be performed in accordance with the standards set forth in Section V.B.(4) of this Consent Decree.

Finally, the Transition Plan for Sidewalks will also include language indicating that notwithstanding the priority or timetables for removal of barriers assigned to respective PPROW corridors or elements thereof, PPROW corridors or elements thereof that are identified in complaints through 3-1-1 or otherwise shall be reviewed separately from the Transition Plan. When a complaint is received through 3-1-1 or otherwise regarding the inaccessibility of a PPROW corridor or element thereof, the complained about corridor or element shall be reviewed by

City staff and the DOT ADA Coordinator to determine the appropriate prioritization for being repaired or otherwise addressed. If the DOT ADA Coordinator and City staff do not deem the condition complained of appropriate for immediate repair, the complained of PPROW corridor or element shall be prioritized within its normal priority standard within the Transition Plan for Sidewalks and the complainant shall be so notified. If the complaining party disagrees with a decision arising from the submission of the complaint, the complainant may appeal the decision using DOT's ADA Grievance Procedure.

4. New Construction and Alterations

The Transition Plan for Sidewalks will identify areas containing designated corridors, or elements thereof, that are determined during the development of the plan to have various barriers to accessibility, and which will trigger installation, replacement, or repair of PPROW elements to remove the barriers to accessibility as identified in the Transition Plan for Sidewalks. Notwithstanding the designated priority of the respective corridors and elements in the Transition Plan for Sidewalks, if and when new construction or alterations are performed in or to corridors or elements of the PPROW, such corridors or elements shall be designed and constructed in accordance with the Accessibility Laws and Accessibility Standards.

5. Public Hearings and Public Input

The City will hold at least three (3) public meetings or workshops during the 12 months following completion of the updated Self-Evaluation and before finalizing the Transition Plan for Sidewalks for the purpose of obtaining input from interested community members, disabled persons and organizations that advocate on behalf of the disability community regarding barrier removal priority areas for the Transition Plan for Sidewalks. The City shall also hold at least one public meeting or workshop upon completion of the Transition Plan for Sidewalks to inform the public of its findings and the plan. The City shall ensure the dissemination of notice regarding the public hearings by informing Class Counsel, and all Neighborhood Planning Units, neighborhood organizations, and disability advocacy organizations identified in **Exhibit D**. The City shall ensure that each meeting shall have auxiliary aids and services available upon reasonable advance prior request for effective communication and make every reasonable effort to provide requested auxiliary aids and services upon even shorter notice. However, American Sign Language interpreters, and open or closed captioning, shall be provided if the meeting is held virtually by video conference even if no prior request has been made. If the meeting is held by video conference, the City shall develop a system to ensure meaningful input from attendees. The public meetings

and workshops shall be held in the community (rather than at City Hall) at locations identified by the City. If the City chooses, in its sole discretion, to hold additional public meetings or workshops beyond those required in this paragraph, then it shall be allowed to have these additional meetings at City Hall. The City shall be responsible for the costs of all public meetings or workshops. All public meetings or workshops shall be held at a location that is on an accessible pedestrian route from an accessible bus stop or public transit station and all meetings shall be recorded and made available on-line.

6. Plaintiff and Class Counsel Input

Before the Transition Plan for Sidewalks is finalized, the Plaintiffs, Class Counsel, and the Monitor may review same and provide the City with their input within sixty (60) days of receipt. The City will give good faith consideration to all such comments before finalizing the Transition Plan for Sidewalks but is not otherwise obligated to accept the aforementioned comments. To the extent that Plaintiffs and Class Counsel form a good faith belief that the Transition Plan for Sidewalks as proposed will not result in substantial compliance with this Consent Decree, the Parties shall utilize the Dispute Resolution process outlined below.

7. Completion Date of Transition Plan for Sidewalks

The City will complete and publish the Transition Plan for Sidewalks within two (2) years of the entry of the Judgment. In the event the preparation of the Transition Plan for Sidewalks is delayed due to technical or logistical issues or due to the need to facilitate input from community members or the Advisory Committee (as defined below), or *force majeure*, the Parties shall confer to determine a reasonable completion date for the Transition Plan for Sidewalks. In the event Plaintiffs form a good faith belief that any delay is unreasonable or occurs due to the City's lack of due diligence or good faith, Plaintiffs shall utilize the Dispute Resolution Process contained in this decree.

C. Removal of Barriers to Accessibility in Pedestrian Rights-of-Way

1. Repair or Replacement Prior to Development of Transition Plan for Sidewalks

Nothing in this Consent Decree shall authorize the delay in continuing to remove barriers in the PPROW as required under Title II of the ADA and Section 504 that the City is otherwise performing. During the Self-Evaluation Period, the City will continue to bring the PPROW in compliance with the Accessibility Standards, including those elements in the PPROW identified in any previous self-evaluation or transition plan or that were identified through the City's 3-1-1 system to the extent those items were planned for previously.

2. Compliance Within 25 years

Within twenty-five (25) years of entry of the Judgment, the City will complete the removal of barriers in the Transition Plan for Sidewalks; and adopt policies, practices and procedures to maintain ongoing accessibility in the PPROW, so that the City's program of providing PPROW, when viewed in its entirety, is accessible, as contemplated by the ADA and Section 504. All alterations relating to the PPROW and new construction in the PPROW shall be designed and constructed in accordance with the Accessibility Laws and Accessibility Standards. At the end of the twenty-five-year Term and to the extent the City requires additional time to comply with the Consent Decree, the City and the Plaintiffs (through Class Counsel) shall meet and confer to come to an agreement on whether an additional five-year term is necessary in order to comply with this Consent Decree. If the Parties cannot agree on this, the Parties shall follow the Dispute Resolution procedure set forth herein.

Similarly, no less than 15 years after entry of the Consent Decree, if the City, in its view, is in substantial compliance with the Consent Decree, the City and the Plaintiffs (through Class Counsel) shall meet and confer to come to an agreement on whether to jointly move the Court to terminate the Consent Decree early. If the Parties cannot agree on this, the Parties shall follow the Dispute Resolution

procedure set forth herein.

D. Reporting of Progress Under the Transition Plan for Sidewalks

1. The DOT ADA Coordinator or his or her designee, in coordination with the City's DOT Department, will maintain a record of all work performed and completed under the Transition Plan for Sidewalks. Class Counsel and the Monitor shall be furnished with these records when the City provides its report to the Monitor as set forth below. The Monitor and Class Counsel shall have reasonable access to such records on an interim basis upon request.

2. On an annual basis throughout the Term (based upon the City's fiscal year), the City will post on its website a report related to PPROW complaints submitted through 3-1-1 and the DOT ADA Grievance Procedure and a report of progress under the Transition Plan for Sidewalks. For illustrative purposes only, a sample spreadsheet of the general information to be contained in these reports is contained in **Exhibit H**. The Monitor and Class Counsel shall have reasonable access to such records on an interim basis upon request.

3. Upon its completion, the City will post the Transition Plan for Sidewalks on the City's website, currently located at www.atlantaga.gov. The post on the City's website with the Transition Plan for Sidewalks shall comply with WCAG 2.0 AA.

E. Monitoring of Progress Under the Updated Transition Plan

1. Selection, Qualification, and Term of Monitor

The City will retain the services of an outside consultant to monitor the City's compliance with this Consent Decree (the "Monitor"). The Monitor's duties will continue throughout the Term, as prescribed herein.

The Monitor must have substantial experience in evaluating or assisting public entities in coming into compliance with Accessibility Standards. The Monitor will be knowledgeable in current federal accessibility standards and acceptable national practices and shall have substantial experience in providing consulting services related to facility accessibility, specifically public rights-of-way pedestrian facilities. The Monitor must be, or must be affiliated with, a registered architect experienced in the design of accessible public rights-of-way or a similarly experienced registered civil engineer.

The Monitor shall be selected as follows: The Parties shall attempt to jointly select the Monitor. If the Parties are unable to agree on a Monitor, each party shall submit to the Court a list of up to three nominees, and the Court shall select a Monitor from those lists pursuant to Fed. R. Evid. 706(a). The nominating party must identify and describe each nominee's qualifications and experience (including that of the associated design professional), including listing and

describing each instance in which the nominee has served as an expert, consultant, monitor, or independent reviewer in any action involving the Parties. A similar process will apply to the replacement of the Monitor as necessary.

If, during the Term, the Monitor becomes unable or unwilling to perform his or her duties, the Parties shall select a successor Monitor using the same process set forth above.

2. Providing of Information to the Monitor

During the period in which the Monitor is retained, the Monitor will be provided with all reports required by this Consent Decree. The Monitor will have regular and consistent access to information about the City's progress toward completion and compliance with the Transition Plan for Sidewalks. Upon reasonable notice and request, the City will provide the Monitor with drawings and designs prepared for or by the City related to installation, repair or replacement of PPROW elements or projects. Class Counsel shall have reasonable access to all information provided to the Monitor upon request.

3. Reporting

For the first twelve (12) years of the Monitor's term, the City shall provide a written report to the Monitor and Class Counsel on an annual basis.

Inclusive in this twelve (12) year period is the first two (2) years of the Term, during which time the City is completing the Self-Assessment and Transition Plan for Sidewalks, during which time the Monitor shall have access to the progress reports and materials related to same, and the right to review and comment upon the progress of same, as set forth in Section VII(A)(5). The Monitor's duties during the development of the Transition Plan shall include ensuring that the Transition Plan for Sidewalks includes measurable, objective targets for compliance which may be measured by, among other means, the linear feet of pedestrian corridors to be repaired or replaced, numbers of curb cuts and curb ramps installed, and pedestrian crossings to be repaired or installed.

In years thirteen (13) through twenty-five (25) of the Monitor's term, the City shall provide a written report to the Monitor and Class Counsel on a biennial (every two years) basis.

The written reports throughout the Term shall include:

- (i) A summary of all complaints received through 3-1-1 related to accessibility in the PPROW, including the status of the complaint, the priority given to the complaint, and any repairs, installations or other actions taken to remove barriers as a result of the complaint during that reporting period;

- (ii) A summary of all repairs, installations, or other actions to remove barriers to accessibility in the PPROW pursuant to the Transition Plan for Sidewalks during that reporting period;
- (iii) Updates (if any) on funds budgeted to meet the cost estimates set forth in the Self-Evaluation or the Transition Plan for Sidewalks during that reporting period;
- (iv) An evaluation of the City's progress toward compliance with the ADA and Section 504 during that reporting period with reference to the schedule set forth in the Transition Plan for Sidewalks; and
- (v) Descriptions of any delays during that reporting period in meeting the schedule for ADA compliance set forth in the Transition Plan for Sidewalks.

4. Inspection

Within 90 days after the production of any report described in Section VII.E.3, the Monitor will inspect up to 10% of the PPROW where the report has identified barriers that have been removed in the period covered by the most recently issued report to ensure that such barrier removal is being completed in conformance with the Accessibility Standards. Class Counsel may provide input to the Monitor related to City-issued report(s), including identifying objections to

the City's progress. The Monitor's inspections and consideration of Class Counsels' input, if any, will determine whether there are remaining barriers at sites that were identified as having all barriers removed, or whether barrier removal work was not completed in accordance with the Accessibility Standards.

At the end of the 90-day period, the Monitor will produce a report containing his or her findings to the City and to Class Counsel; the City will have 30 days thereafter to remedy or make provisions for removal of any identified remaining barriers or else to determine that there is a dispute regarding such barriers at any specific location. Any such dispute will be resolved through the Dispute Resolution Procedure set forth herein.

5. Additional Duties of Monitor

i. **In years one (1) through seven (7) of the Monitor's**

Term, he or she shall have the following additional responsibilities:

- Review and comment on the City's policies, standards, practices, training, forms, and guidance pertaining to PPROW including:
 - The evaluation processes for curb ramps;
 - Design exceptions based on technical infeasibility, impracticality, or other exceptions allowed under the

ADA and its implementing regulations;

- May review all grievances and complaints concerning the accessibility of the PPROW to confirm the City's response to such is in conformance with the Consent Decree.

ii. **In years eight (8) through twenty-five (25) of the Monitor's Term**, he or she shall have the following additional responsibilities:

- May review all grievances and complaints concerning the accessibility of the PPROW to confirm the City's response to such is in conformance with the Consent Decree.

6. Notice of Non-Compliance

After the City is given the aforementioned 30 days to remedy or otherwise provide for an appropriate resolution for matters of non-compliance with the Consent Decree that remain after receiving the Monitor's report, the Monitor will advise the City and Class Counsel of the determination of whether the condition or circumstance complies with the Consent Decree or specify any remaining deficiency. The Parties will attempt to reach a resolution of any Dispute regarding the City's compliance with the Transition Plan for Sidewalks or the Consent

Decree. In the event a resolution cannot be reached, the Parties will utilize the Dispute Resolution Procedure.

7. Monitoring Fees and Expenses

The City shall pay all reasonable fees and expenses of the Monitor arising from the work of the Monitor, including any expenses incurred for the use of any consulting expert(s), as part of the Monitors' efforts in monitoring, advising, consulting with, reviewing and evaluating the City's reports required under this Consent Decree. The Monitor shall provide quarterly invoices reflecting the time spent on each task performed and the expenses related thereto.

Unless such provision shall prevent the parties from securing an effective Monitor, the following guidelines shall govern the employment of same: The monitor shall receive a maximum hourly rate of \$375. Total monitor fees shall not exceed \$20,000 per year for years 1-12, and \$10,000 per year for years 13-25. If the parties are not able to secure a suitable monitor based on these guidelines, the parties shall meet and confer to adjust the guidelines and, if they cannot achieve a resolution in this way, shall petition the Court to order additional funding for same.

The annual monitoring fees set forth herein are stated in 2023 dollars, and shall be adjusted annually based on the Consumer Price Index for the Atlanta area as calculated by the United States Bureau of Labor Statistics.

F. Advisory Committee

A committee shall be formed to make recommendations to the City related to making the City more accessible to persons with disabilities. The committee shall be established and operated consistent with Section 3-401 of the City of Atlanta Charter.

The committee should include representatives from a spectrum of disability-related communities (e.g., deaf, blind, mobility-impaired) and public service experts (e.g., transportation, recreation, and education) including, but not limited to, those affiliated with the organizations listed in **Exhibit D**. Members may include City staff in the areas of their respective expertise. To the extent authorized by Section 3-401 of the City of Atlanta Charter, the committee shall be authorized to adopt bylaws establishing reasonable practices with respect to its meetings and communications. The DOT ADA Coordinator shall meet with the Advisory Committee at least twice each year upon reasonable notice by the Advisory Committee. Nothing in this Consent Decree shall exempt the committee from full compliance with Section 3-401 of the City Charter.

G. ADA Coordinator

1. Throughout the Term, the City will employ a DOT ADA Coordinator who, among other things, will oversee tasks relating to the development and implementation of the DOT's Self-Evaluation and Transition Plan for Sidewalks, assisting in the resolution of complaints received through the 3-1-1 system, DOT's policies and procedures regarding the accessibility of the ATL-PPROW Program, and the City's efforts to maintain accessibility in its PPROW. The name, title, and contact information of the DOT ADA Coordinator shall be prominently posted on the City's website and any directories.

2. The DOT ADA Coordinator position shall be filled with an individual who has qualifications comparable to the following: (i) possess a bachelor's or higher degree in civil engineering (or other relevant engineering discipline), urban planning, or architecture, or *juris doctor* (ii) experience in evaluating or assisting public entities in evaluating the accessibility of facilities under Title II of the ADA and Section 504; (iii) knowledge of current federal and state accessibility standards; and (iv) a minimum of five (5) years' experience in providing ADA consulting services related to accessible facilities. The City retains sole discretion on the selection of the DOT ADA Coordinator, provided that the candidate selected substantially satisfies the aforementioned criteria.

3. The DOT ADA Coordinator will maintain the City's 3-1-1 complaint process for PPROW access-related repairs and improvements to the City's PPROW and shall track and maintain a record of all work performed and completed under the Transition Plan for Sidewalks.

4. The DOT ADA Coordinator will oversee the training for relevant City employees relating to the repairing and eliminating access barriers in the PPROW.

H. Training of City Personnel

1. In consultation with the Advisory Committee and Class Counsel, the DOT ADA Coordinator will develop and provide training for all plan reviewers and inspectors to the extent their jobs entail reviewing plans and/or inspecting the PPROW for compliance with the Accessibility Standards. The training shall include federal and state requirements regarding the accessibility of pedestrian routes including, without limitation, the Accessibility Standards. The City will include this training in its new hire orientation for plan reviewers and inspectors whose jobs relate to the accessibility of the City's PPROW unless the newly hired plan reviewers and inspectors possess sufficient knowledge of the Accessibility Laws and Accessibility Standards due to sufficient prior training and

experience as determined by the DOT Commissioner and the DOT ADA Coordinator.

2. The City will provide the aforementioned inspectors and plan reviewers with a minimum of at least two hours of accessibility training on at least an annual basis. This training shall be prescribed by the DOT Commissioner and DOT ADA Coordinator.

3. The City will provide training to the inspectors and plan reviewers when there is a change in the law related to accessibility of PPROW to individuals with disabilities, as determined by the ADA Coordinator and City Attorney.

4. The City may, at its option, utilize third party vendors to provide the training described in this section.

I. Intake and Resolution of Complaints Regarding Barriers to Accessibility in the PPROW

1. Complaint Intake

Within one hundred eighty (180) days, the City shall establish a Complaint Process dedicated to the intake of complaints regarding accessibility-related barriers in the PPROW. The Complaint Process shall provide a means of submitting complaints or information regarding accessibility-related barriers in the PPROW within the City's current "3-1-1" system. The City shall add an

additional category to its current 3-1-1 system to ensure that that complaints regarding ATL-PPROW are segregated from complaints that do not involve ATL-PPROW and are routed to and processed by DOT. DOT will then prioritize complaints related to the ATL-PPROW once they are routed to them. The City shall develop means to allow members of the public to conveniently report barriers to accessibility in the PPROW to the City, by means of telephone, email, website, and a free mobile phone/tablet application. DOT may develop and implement a system including guiding criteria to prioritizing accessibility barriers in the PPROW from complaints to determine priority for repair or removal. Persons who submit complaints related to the ATL-PPROW through the 3-1-1 system and who are dissatisfied with the response to their complaint including but not limited to the priority given to the complaint or proposed timing for the removal of any complained about barriers may complain about or appeal such decision using DOT's ADA Grievance Procedure. The 3-1-1 system and response shall have the capability of providing effective communication to and from persons with communications-affecting disabilities and the intake system shall provide notification of the availability of the alternate means of accessible communication available and instructions (as applicable) on how to access them.

2. City's Response to Complaints of Accessibility Barriers in the PROW

(i) The City will prepare and implement written policies, practices and procedures to ensure timely response to the complainant, triaging, processing, evaluating complaints or grievances regarding barriers to accessibility in the PROW, through the City's "3-1-1" system, and then commence removal of the complained about barrier(s).

(ii) If upon initial evaluation of the complaint it is determined that the complained of barrier will likely not be removed within **180 days**, or the work to remove it will not be substantially underway within **90 days**, then the City shall notify the complainant of such and the reason(s) why. The notification shall be in writing (which may be by electronic means, e.g., email or response provided on a printable webpage directed only to the complainant) and may also be additionally addressed telephonically but shall at least be in writing so as to provide the complainant a record of the communication exchange.

(a) Class members submitting complaints regarding accessibility barriers in PROW may appeal the City's response if they feel the repair or project still does not comply with this Consent Decree or is taking longer than the complainant believes it should. Such appeals shall be brought utilizing the DOT ADA Grievance Procedure described in Section VII.I.3 of this Consent

Decree. Such appeals shall not create an additional administrative exhaustion requirement to bringing any complaint under law that does not already exist. The City's response shall provide notification of the availability of the DOT ADA Grievance Procedure at the time of the City's response(s) regarding the complaint to the complainant.

(b) In addition to the communication set forth above, if removal of the barrier complained of is expected to take longer than **30 days** then a member of City staff shall contact the complainant – and keep a record of same – to inform him or her of such, and offer to help determine if there is/are alternative accessible route(s) in the PPROW that will allow the complainant to be able to utilize the PPROW to get to and from where complainant needs until the barrier complained of is removed. The purpose of this additional communication is to assist the complainant with a potential alternative accessible route until the barrier is removed.

3. DOT's Grievance Procedure

The City will establish a DOT Grievance Procedure in order to address appeals from Class members who previously submitted complaints regarding accessibility barriers in PROW through the City's 3-1-1 system and

contend that the repair or project still does not comply with this Consent Decree or is taking longer than the complainant believes it should.

J. City Policies, Practices and Procedures to Maintain Ongoing Accessibility in the PPROW

1. General

The City shall generally adopt policies, practices and procedures to maintain ongoing accessibility in the PPROW, including during instances of construction or special events.

2. Construction in or affecting the PPROW

i. The City will adopt and implement necessary policies, practices and procedures to best ensure that its permitting, inspection and approval processes require that *all parties* who undertake construction, Alterations, and or other development projects that cross, connect to, are adjacent to, abut or otherwise affect, or *could* affect the configuration or use of the PPROW.

(a) Initial review of building permit applications. The City shall implement policies, practices, and procedures such that when applications for building permits involving the site, exterior of existing buildings, or for new construction are reviewed to determine if the proposed improvements set forth in the permit drawings contain, or as a consequence of the improvements will or may require any intersection with, connection to, modification of, or

improvements to the PPROW, and if so, the applicant shall submit an application for and attain the appropriate DOT permit, prior to the issuance of the building permit.

(b) Work directly in, on, contiguous with or otherwise affecting PPROW. The City shall implement policies, practices and procedures to ensure that any new construction, alteration, repair or maintenance project in or sufficiently close to the PPROW so as to affect or potentially affect accessibility in the PPROW is reviewed for compliance with the Accessibility Standards prior to DOT's issuance of a permit to commence the work and inspected upon completion before final approval is granted to best ensure that the project was completed in compliance with the Accessibility Standards. Where applicable, constructed projects shall not receive a final certificate of occupancy or its equivalent until the project has received an approved final inspection of the DOT permit. DOT plan review and inspections shall be performed under the supervision of the DOT Commissioner or his/her designees. Plan review and inspections may be performed by City staff or subcontracted personnel as determined by the DOT Commissioner. If the project will, or could reasonably be expected to create barriers to accessibility at anytime during the duration of the project then the Maintenance of Traffic plan that is submitted with the drawings accompanying

the DOT permit application shall, among its other requirements, indicate where, at any time during the duration of the project, accessibility of the PPROW may be limited, eliminated or otherwise compromised, even if such accessibility barriers are expected to be present only for a short period of time. The MOT shall provide for maintaining the accessibility of the PPROW, including by such means as providing, and indicating such by signage, alternative accessible pedestrian routes during the duration of the project. The DOT Commissioner shall have the discretion to determine what constitutes exigent circumstances that would allow for the presence of short-term barriers in PPROW notwithstanding the requirements of an MOT for a project including the time of day and duration of the barrier(s) to accessibility without constituting a violation of the DOT permit as necessary to facilitate DOT's management of the PPROW. The MOT shall be made available to the public upon request as a public record. Records of plan review and inspections for accessibility compliance shall also be maintained and made available to members of the public in the manner previously prescribed.

3. Private (Non-City) Parties Using the PPROW for Normal Business Operations

i. The City will implement and maintain written policies and procedures relating to the enforcement of the City's code requirements ensuring access to PPROW, including but not limited to barriers caused by

signage, tables and chairs, and other items installed or erected by third-parties for normal business operations. The aforementioned policies and procedures shall indicate that the City shall only allow encroachment or obstructing the accessible PPROW as authorized by permit which shall require the identification of an alternative accessible route determined to be acceptable by the DOT Commissioner and signage so indicating where applicable. The aforementioned policies and procedures shall further identify administrative enforcement mechanisms such as revocation of their permits or citations for third-parties who either refuse to remove barriers to the PPROW or have installed barriers not in compliance with their permit.

ii. The City will accept reports made by individual members of the public through the Complaint Process relating to accessibility barriers to the PPROW caused by third parties. The City shall maintain policies and procedures authorizing the use of its police powers to enforce its ordinances and other laws and codes it is authorized to enforce to cause the elimination of existing or future (when they occur) accessibility barriers erected by third parties in PPROW.

K. The City's Public Right of Way Standard Details

The City shall publish and maintain on its Department of Transportation Website, its standard details for construction in PPROW (the "Standard Details"). The Standard Details for accessible curb ramp design and accessible sidewalk design shall comply with the Accessibility Standards. The City will continue to make available a copy of the Standard Plans on the City's website currently at <https://www.atlantaga.gov/government/departments/public-works/standard-details-public-right-of-way> so that the Standard Details are available to all entities, including private developers performing new construction or Alterations involving PROW.

L. Access During Special Events

The City will prepare and implement written policies and procedures to provide alternate, accessible routes in the PPROW through and around areas where conditions during special events prohibit full access to City PPROW. The City will work with the third-party contractor or producer for the special event to make reasonable accommodations for persons with Mobility Disabilities. Such accommodations may include identifying temporary accessible alternative routes for the pendency of the special event and posting descriptions of such routes on the City's website (currently located at www.atlantaga.gov) when determined to

be appropriate by the DOT Commissioner, ADA Coordinator or City special events staff, prior to the start of the special event. In such cases, the City will provide signage or require the third-party contractor or producer to provide signage consistent with the Accessibility Standards in effect at the time of the special event directing persons with Mobility Disabilities to such accessible temporary routes when determined to be appropriate by the DOT Commissioner, ADA Coordinator or City special events staff. The City will prepare and implement procedures for enforcing its policies related to special events, including monetary and/or other penalties for violation of such policies. The City will also provide all entities that conduct special events with guidelines and instructions for providing alternate accessible routes and related signage and will monitor compliance.

M. Dispute Resolution Procedure

All disputes concerning the performance of, interpretation, implementation, monitoring, compliance, and modification of the Consent Decree (as as well as any disputes related thereto including but not limited to attorneys' fees), shall be resolved as follows:

1. Notification in Writing

Disputes shall be initiated by stating the complete scope of the dispute in writing and notifying the other Party as soon as practicable. Class Counsel (and any class members through Class Counsel) must notify the DOT ADA Coordinator of any Disputes with a copy to the City Attorney in order for the dispute to be initiated. The City or its attorney shall likewise provide notice of any dispute initiated by the City to Class Counsel. Any and all Class Counsel's fees associated with this paragraph 1 and are contemplated within and subject to the six-hundred and twenty five thousand dollars (\$625,000.00) cap for Class Counsel's reasonable attorneys' fees and costs over the Term as set forth in Section VII(N)(2). Notice shall be provided as follows:

As to the Class

James Radford
james@decaturlegal.com
Radford & Keebaugh
315 West Ponce de Leon Ave
Suite 1080
Decatur, Georgia 30030

Andrew Coffman
acoffman@pcwlawfirm.com
Parks, Chesin & Walbert, PC
75 14th Street, 26th Floor
Atlanta, Georgia 30309

As to the City of Atlanta

| | |
|--|---|
| <p><u>City Attorney</u></p> <p>Office of the City Attorney CITY OF ATLANTA Suite 500 * City Hall Tower 55 Trinity Street Atlanta, Georgia 30303-3520</p> | <p><u>DOT ADA Coordinator</u></p> <p>DOT ADA Coordinator Department of Transportation CITY OF ATLANTA Suite 4350 55 Trinity Avenue SW Atlanta, Georgia 30303</p> |
|--|---|

2. Meet and Confer

Unless otherwise agreed to by the Parties, with respect to any Dispute concerning this Consent Decree, the Parties agree to meet and confer in good faith, within thirty (30) days after a Dispute is raised in writing by one of the Parties to discuss and try to resolve such Dispute. Any and all Class Counsel’s fees associated with this paragraph 2 are contemplated within and subject to the six-hundred and twenty five thousand dollars (\$625,000.00) cap for Class Counsel’s reasonable attorneys’ fees and costs over the Term as set forth in Section VII(N)(2).

3. Mediation

Failing a resolution by the Parties or upon a failure to timely meet and confer, any Party may request to submit the Dispute to an agreed-upon mediator

or magistrate judge for resolution. The Parties must then submit the Dispute to the selected mediator within thirty (30) days of meeting and conferring. The mediator shall have the authority to assist the Parties in resolving the Dispute but shall not have the authority to direct any Party to take or refrain from taking any action or to render decisions. The mediation shall be held and completed within forty-five (45) calendar days of submission unless the assigned mediator's calendar will not allow for such scheduling. In such an instance, the mediation shall be scheduled as soon as practicable. The City shall be responsible for the mediator's fees. Any and all Class Counsel's fees associated with this paragraph 3 are contemplated within and subject to the six-hundred and twenty five thousand dollars (\$625,000.00) cap for Class Counsel's reasonable attorneys' fees and costs over the Term as set forth in Section VII(N)(2).

4. Submission to Court

Failing resolution of a Dispute through the procedures identified in the aforementioned sections, any Party may submit the issue to the District Court for resolution. If Class Counsel prevails on the issue(s) submitted to the Court, the Class Counsel may be awarded prevailing party fees and such fees associated with actions relating to this paragraph 4 are not subject to the six-hundred and twenty five thousand dollars (\$625,000.00) for Class Counsel's reasonable attorneys' fees

and costs over the Term as set forth below. Any Class Counsel prevailing party fee award however shall not include any fees, costs or expenses associated with work performed by Class Counsel with regard to Section VII(M) Paragraphs (1), (2), or (3) above.

N. Attorneys' Fees and Costs

1. Attorneys' Fees, Expenses, and Costs Through the Entry of the Consent Decree

(i) Plaintiffs are prevailing parties. Ten (10) days after the Court issues its Preliminary Approval Order, Class Counsel shall submit to counsel for the City documentation of their attorneys' fees and costs to date. The parties have previously met and conferred regarding Class Counsel's attorneys' fees through the preliminary approval of the Consent Decree; and the parties stipulate that fees in the amount of \$600,000 are presumptively reasonable for services performed through that date.

Class Counsel will submit an application requesting entry of an award of attorneys' fees and expenses at least twenty (20) days prior to the deadline for Class members to submit objections to this Consent Decree. Along with its Final Judgment approving the Consent Decree, the Court shall enter an order on Class Counsel's application for attorneys' fees and costs.

(ii) If there are objections to the Consent Decree, the Parties agree to meet and confer regarding the legal work associated with responding to such objections to ensure that there will be a fair allocation of tasks and no duplicative legal work to the extent possible. If there is any dispute regarding the necessity or allocation of work the Parties agree to utilize the Dispute Resolution process detailed in Section VII(M) to resolve the same. Class Counsel agrees to only perform the legal work in responding to such objections as outlined in the agreed-upon work allocation. Class Counsel will then submit a supplemental application requesting entry of an award of attorneys' fees and expenses relating to any work it has performed litigating objections to the Consent Decree no later than ten (10) days after the Final Judgment. The City does not waive the right to object to any supplemental application.

The City shall pay Class Counsel's attorneys' fees and cost within sixty (60) days of any court order approving an application for attorneys' fees and expenses.

2. Attorneys' Fees and Costs for Implementing the Consent Decree

Class counsel shall also be entitled to fees and costs from the City reasonably incurred during the Term of this Consent Decree and in the course of enforcement of this Consent Decree, including for the following duties:

- Reviewing reports and documentation received by Class Counsel per the obligations set forth in this agreement;
- Attending public meetings concerning content of the Sidewalk Transition Plan;
- Review and attention to Sidewalk Transition Plan;
- Monitoring status of Sidewalk Transition Plan, meetings, or other deadlines;
- Communications with Class Members and Monitor;
- Preparation for and attendance at any proceedings before the Court that fall outside the Dispute Resolution Process in Section VII(M) herein, including status conferences;
- Attending any City proceedings related to the Consent Decree, including meetings of the Advisory Committee, and reviewing written materials related to same;
- Pursuing objections pursuant to the Dispute Resolution Process, unless there is a finding that Class Counsels' objections are asserted without a reasonable, good faith basis.

In the event of a dispute over fees, Class Counsel shall follow the Dispute Resolution Procedure as set forth in Section M and subject to the terms therein.

Class counsel duties shall not include representation of individual persons with respect to grievances regarding access. However, in the context of reviewing the City's progress in carrying out the consent decree, Class counsel may review grievances filed and the results obtained therefrom, including possible contact with individual grievants about their experiences with the 3-1-1 system, and consider same in assessing the City's compliance with the Consent Decree.

Class Counsels' reasonable attorneys' fees and costs after the entry of judgment and during the term for monitoring the City's compliance with this decree shall be capped at six-hundred and twenty-five thousand dollars (\$625,000.00). Monthly invoices for Class Counsel's time and costs shall be presented to the City on a quarterly basis, and the City shall pay the invoices within sixty (60) days. The invoices shall contain a description of services by date and by biller. If the City contends that Class Counsel's billing is unreasonable, the Parties shall follow the Dispute Resolution procedure set forth in Section M. Class Counsel shall be entitled to fees for time reasonably expended during the Dispute Resolution process.

O. Class Counsel Availability

The Parties agree that the availability of Class Counsel is a necessary component to ensure compliance with this Consent Decree. If at any time after

fifteen (15) years from the date of entry of the Judgment Class Counsel determines that the \$625,000 cap will be inadequate to provide for reasonable attorneys' fees and expenses related to enforcement of the Agreement, Class Counsel may petition the Court for an order requiring the City to pay additional funds, which the Court will consider upon a showing by clear and convincing evidence that such fees are necessary for effective enforcement of the Consent Decree.

P. Additional Terms

1. Enforcement

Nothing in this Consent Decree, express or implied, is intended to or will confer upon any person or entity not a Party to this Consent Decree any right, benefit or remedy of any nature whatsoever under or by reason of this Consent Decree. Only the Plaintiffs and Class Counsel may seek to enforce the terms of this Consent Decree through the Dispute Resolution Procedure provided for herein, up to and including a motion before the District Court. To the extent individual members of the Settlement Class have complaints regarding the City's compliance with the terms of this Consent Decree, they must either bring them to the attention of Class Counsel directly, or to the City, which will timely forward any such complaints to Class Counsel. Class Counsel will have the sole and

complete discretion to seek to enforce any right, benefit or remedy under or by reason of this Consent Decree.

2. Administrative Preconditions and Approvals

“The City is a municipal corporation of the State of Georgia. The City is vested with the powers granted to, and limitations imposed upon, municipal corporations by the laws of Georgia, and by the City’s Charter and ordinances. The Parties acknowledge and agree that the terms of this Consent Decree were agreed upon with the understanding that the City must comply with the laws of the State of Georgia, the City’s Charter and Code of Ordinances including, but not limited to, the City’s Procurement and Real Estate Code, even while performing the obligations set forth upon it by this Consent Decree. To the extent procurement procedures set forth in the City’s Procurement and Real Estate Code that are required in order for the City to be able to legally perform or comply with various obligations under this Consent Decree will cause the completion dates of those respective obligations to extend beyond the completion dates for those obligations required by this Consent Decree, the City shall not be in breach or violation of this Consent Decree provided the City gives written notice to Class Counsel and the Monitor of the delay, the reasons for the delay, the anticipated date of completion, and acts in good-faith to effect implementation as soon as practicable. In the event

the Plaintiffs, Class Counsel, or the Monitor form a good faith belief that any delay due to the procurement procedures is unreasonable or occurs due to the City's lack of due diligence or good faith, Plaintiffs Class Counsel, or the Monitor shall utilize the Dispute Resolution Process contained in this decree. This subsection shall not alleviate the City of any of the substantive obligations imposed upon it in this Consent Decree.

3. Entire Agreement

This Consent Decree, and the documents attached to or expressly referred to in this Consent Decree, contain the entire agreement between the Parties regarding the Lawsuit and constitute the final and complete written expression and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the Parties with respect to the matters referenced in this Consent Decree. The Parties understand and agree that the terms of this Consent Decree supersede any prior discussions, understandings, or agreements between them related to the subject matter hereof, and supersede all prior or contemporaneous negotiations, promises, covenants, agreements or representations of any nature whatsoever with respect to such matters. This Consent Decree cannot be amended, modified or supplemented, and no

modification or limits will be binding on the Parties, except by a written document signed by all of the Parties and approved by the District Court.

4. No Other Representations

Each of the Parties represents, warrants and agrees that, in executing this Consent Decree, he, she or it has relied solely on the statements expressly set forth in this Consent Decree, and has placed no reliance whatsoever on any statement, representation, or promise of any other Party, or any other person or entity, not expressly set forth in this Consent Decree, or upon the failure of the other Party, or any other person or entity, to make any statement, representation or disclosure of anything whatsoever. The Parties have included this provision: (i) to preclude any claim that any Party was in any way fraudulently induced to execute this Consent Decree; and (ii) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Decree.

5. Drafting of this Agreement

The Parties acknowledge and agree that this Consent Decree will for all purposes be deemed jointly drafted and fully negotiated, and, as a result, will not in any manner be interpreted in favor of, or as against, any particular Party by reason of being the drafting Party. Any rule of law, or any statute, legal decision or principle of common law that would require interpretation of any ambiguities

or uncertainties in this Consent Decree against one of the Parties, will have no application and is hereby expressly waived.

6. Binding Effect

All of the terms and provisions of this Consent Decree will be binding upon and will inure to the benefit of the Parties, their heirs, successors and assigns.

7. Authority

Each of the Parties represents, warrants and agrees that he, she or it has the full right and authority to enter into this Consent Decree, and that the person executing this Consent Decree has the full right and authority to commit and bind such Party.

8. Paragraph Headings

The headings, or lack thereof, preceding each of the paragraphs in this Consent Decree are for convenience only, and will not be considered in the construction or interpretation of this Consent Decree.

9. Execution in Counterparts

This Consent Decree may be executed by the Parties in separate counterparts, and all such counterparts taken together will be deemed to constitute one and the same agreement.

10. Non-Substantive Modifications

To the extent the Parties need to make non-substantive modifications to the Consent Decree, including but not limited to, changes in law firm affiliation, street names, or department names, and if there are updated or amended regulations, such non-substantive modifications can be made by agreement of the Parties without the need for Court intervention.

EXECUTED by the Parties as follows:

Dated: _____, 2023

THE CITY OF ATLANTA

By: *Dina R. Hudson*

Its: City Attorney

Dated: _____, 2023

By: _____

Laurel Lawson, individually and as a representative of the Settlement Class

Dated: _____, 2023

By: _____

James Curtis, individually and as a representative of the Settlement Class

Dated: _____, 2023

By: _____

James Turner, individually and as a representative of the Settlement Class

EXECUTED by the Parties as follows:


Dated: _____, 2023

THE CITY OF ATLANTA

By: _____

Its: _____

Dated: Aug 20, 2023, 2023

By: 
Laurel Lawson (Aug 20, 2023 12:00 EDT)

Laurel Lawson, individually and as
a representative of the Settlement
Class

Dated: _____, 2023

By: _____

James Curtis, individually and as a
representative of the Settlement
Class

Dated: _____, 2023

By: _____

James Turner, individually and as a
representative of the Settlement
Class

EXECUTED by the Parties as follows:

Dated: _____, 2023

THE CITY OF ATLANTA

By: _____

Its: _____

Dated: _____, 2023

By: _____

Laurel Lawson, individually and as
a representative of the Settlement
Class

Dated: _____, 2023

By: _____

James Curtis, individually and as a
representative of the Settlement
Class

Dated: Aug 23, 2023, 2023

By: *James Turner*
James Turner (Aug 23, 2023 13:47 EDT)

James Turner, individually and as a
representative of the Settlement
Class

EXECUTED by the Parties as follows:

Dated: _____, 2023

THE CITY OF ATLANTA

By: _____

Its: _____

Dated: _____, 2023

By: _____

Laurel Lawson, individually and as
a representative of the Settlement
Class

Dated: _____, 2023

By: James Curtis
James Curtis (Aug 24, 2023 11:09 EDT)

James Curtis, individually and as a
representative of the Settlement
Class

Dated: _____, 2023

By: _____

James Turner, individually and as a
representative of the Settlement
Class

APPROVED AS TO FORM:

Dated: August 25, 2023

GREENBERG TRAUIG, P.A.

By: /s/ Robert Fine

Robert Fine, Esq.
Attorney for the City of Atlanta

Dated: August 25, 2023

GREENBERG TRAUIG, LLP

By: /s/ Richard J. Valladares

Richard J. Valladares, Esq.
Attorney for the City of Atlanta

Dated: _____, 2023

PARKS, CHESIN & WALBERT, P.C.

By: _____

Andrew Y. Coffman, Esq.
Attorney for Plaintiffs and the Class

Dated: _____, 2023

RADFORD & KEEBAUGH, LLC

By: _____

James E. Radford, Esq.
Attorney for Plaintiffs and the Class

ACTIVE 689701541v1

APPROVED AS TO FORM:

Dated: _____, 2023

GREENBERG TRAURIG, P.A.

By: _____

Robert Fine, Esq.
Attorney for the City of Atlanta

Dated: _____, 2023

GREENBERG TRAURIG, LLP

By: _____

Richard J. Valladares, Esq.
Attorney for the City of Atlanta

Dated: August 25, 2023

PARKS, CHESIN & WALBERT, P.C.

By: Andrew Y. Coffman

Andrew Y. Coffman, Esq.
Attorney for Plaintiffs and the Class

Dated: 8-25, 2023

RADFORD & KEEBAUGH, LLC

By: James E. Radford

James E. Radford, Esq.
Attorney for Plaintiffs and the Class

ACTIVE 687793055v5

EXHIBIT A

The background features a large, light blue watermark of the United States Access Board logo. It consists of a five-pointed star with a stylized American flag (red and white stripes) in the center. The words "UNITED STATES" are arched across the top of the star, and "ACCESS BOARD" is arched across the bottom. The main title is overlaid on this watermark.

Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

July 26, 2011

UNITED STATES ACCESS BOARD
A FEDERAL AGENCY COMMITTED TO ACCESSIBLE DESIGN



UNITED STATES ACCESS BOARD
A FEDERAL AGENCY COMMITTED TO ACCESSIBLE DESIGN

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

[Docket No. ATBCB 2011-04]

RIN 3014-AA26

Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board is proposing accessibility guidelines for the design, construction, and alteration of pedestrian facilities in the public right-of-way. The guidelines ensure that sidewalks, pedestrian street crossings, pedestrian signals, and other facilities for pedestrian circulation and use constructed or altered in the public right-of-way by state and local governments are readily accessible to and usable by pedestrians with disabilities. When the guidelines are adopted, with or without additions and modifications, as accessibility standards in regulations issued by other federal agencies implementing the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Architectural Barriers Act, compliance with the accessibility standards is mandatory.

DATES: Submit comments by November 23, 2011. Hearings will be held on the proposed guidelines on September 12, 2011 from 9:30 to 11:30 a.m. in Dallas, TX; and on November 9, 2011 from 9:30 to 11:30 a.m. in Washington, DC.

ADDRESSES: Submit comments by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Regulations.gov ID for this docket is ATBCB-2011-0004.
- E-mail: row@access-board.gov. Include docket number ATBCB 2011-04 in the subject line of the message.
- Fax: 202-272-0081.
- Mail or Hand Delivery/Courier: Office of Technical and Informational Services, Access Board, 1331 F Street, NW, Suite 1000, Washington, DC 20004-1111.

All comments will be posted without change to <http://www.regulations.gov>, including any personal information provided.

The hearing locations are the Sheraton Dallas (San Antonio A Ballroom), 400 North Olive Street, Dallas, TX 75201; and the Access Board Conference Room, 1331 F Street, NW, Suite 800, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Scott Windley, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW, Suite 1000,

The background features a large, light blue watermark of the United States Access Board logo. It consists of a five-pointed star with a stylized American flag (red and white stripes) in the center. The words "UNITED STATES" are arched across the top of the star, and "ACCESS BOARD" is arched across the bottom. The main title is overlaid on this watermark.

Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

[Docket No. ATBCB 2011-04]

RIN 3014-AA26

Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board is proposing accessibility guidelines for the design, construction, and alteration of pedestrian facilities in the public right-of-way. The guidelines ensure that sidewalks, pedestrian street crossings, pedestrian signals, and other facilities for pedestrian circulation and use constructed or altered in the public right-of-way by state and local governments are readily accessible to and usable by pedestrians with disabilities. When the guidelines are adopted, with or without additions and modifications, as accessibility standards in regulations issued by other federal agencies implementing the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Architectural Barriers Act, compliance with the accessibility standards is mandatory.

DATES: Submit comments by November 23, 2011. Hearings will be held on the proposed guidelines on September 12, 2011 from 9:30 to 11:30 a.m. in Dallas, TX; and on November 9, 2011 from 9:30 to 11:30 a.m. in Washington, DC.

ADDRESSES: Submit comments by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Regulations.gov ID for this docket is ATBCB-2011-0004.
- E-mail: row@access-board.gov. Include docket number ATBCB 2011-04 in the subject line of the message.
- Fax: 202-272-0081.
- Mail or Hand Delivery/Courier: Office of Technical and Informational Services, Access Board, 1331 F Street, NW, Suite 1000, Washington, DC 20004-1111.

All comments will be posted without change to <http://www.regulations.gov>, including any personal information provided.

The hearing locations are the Sheraton Dallas (San Antonio A Ballroom), 400 North Olive Street, Dallas, TX 75201; and the Access Board Conference Room, 1331 F Street, NW, Suite 800, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Scott Windley, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW, Suite 1000,

Public Rights-of-Way Accessibility Guidelines: Preamble

Washington, DC 20004-1111. Telephone (202) 272-0025 (voice) or (202) 272-0028 (TTY). E-mail address row@access-board.gov.

SUPPLEMENTARY INFORMATION:**Availability of Proposed Guidelines with Figures**

The proposed guidelines will be codified as an appendix to 36 CFR part 1190. In the past, the Architectural and Transportation Barriers Compliance Board (Access Board) submitted “camera ready” copy (i.e., images) of its guidelines to the Federal Register for the appendices since the guidelines included figures that illustrate the requirements in the guidelines. The appendices were not word searchable when viewed online because they are images. After discussions with the Office of the Federal Register, the Access Board has decided to submit the proposed guidelines as a Word document with only one image, the International Symbol of Accessibility (Figure R411), so the appendix will be word searchable when viewed on-line. A copy of the proposed guidelines with figures is available on the Access Board website at: <http://www.access-board.gov/prowac/nprm.htm>. Except for the International Symbol of Accessibility (Figure R411), the figures are for illustration purposes only and do not establish requirements. The copy of the proposed guidelines on the Access Board website also sets out advisory sections in shaded boxes, and indents subsections under the main sections.

Introduction

The Access Board is an independent federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792).¹ The Access Board is responsible for developing accessibility guidelines for the design, construction, and alteration of facilities to ensure that they are readily accessible to and usable by individuals with disabilities. The Access Board’s guidelines play an important part in the implementation of three laws that require newly constructed and altered facilities to be accessible to individuals with disabilities: the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Architectural Barriers Act. As further discussed under the Statutory and Regulatory Background, these laws require other federal agencies to issue regulations which include accessibility standards for the design, construction, and alteration of facilities. The regulations issued by the other federal agencies to implement these laws adopt, with or without additions and modifications, the Access Board’s guidelines as accessibility standards. When the Access Board’s guidelines are adopted, with or without additions and modifications, as accessibility standards in regulations issued by other federal agencies implementing these laws, compliance with the accessibility standards is mandatory.

Statutory and Regulatory BackgroundAmericans with Disabilities Act

1. The Access Board consists of 13 members appointed by the President from the public, a majority of which are individuals with disabilities, and the heads of 12 federal agencies or their designees whose positions are Executive Level IV or above. The federal agencies are: The Departments of Commerce, Defense, Education, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, Transportation, and Veterans Affairs; General Services Administration; and United States Postal Service.

Public Rights-of-Way Accessibility Guidelines: Preamble

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The Americans with Disabilities Act (42 U.S.C. 12101 et seq.) is a federal civil rights law that prohibits discrimination against individuals with disabilities. Title II of the Americans with Disabilities Act covers state and local governments.² The Department of Justice is responsible for issuing regulations to implement Title II of the Americans with Disabilities Act, except for the public transportation parts.³ The regulations issued by the Department of Justice include accessibility standards for the design, construction, and alteration of facilities (other than facilities used in the provision of public transportation covered by regulations issued by the Department of Transportation).⁴ The Department of Justice's accessibility standards adopt, with additions and modifications, the Access Board's current guidelines, which are discussed below under the Need for Rulemaking.⁵ See 28 CFR 35.104 and 35.151.

The Department of Transportation is responsible for issuing regulations to implement the public transportation parts of Title II of the Americans with Disabilities Act.⁶ The regulations issued by the Department of Transportation include accessibility standards for the design, construction, and alteration of facilities used in the provision of public transportation covered by the public transportation parts of Title II of the Americans with Disabilities Act. The Department of Transportation's accessibility standards adopt, with additions and modifications, the Access Board's current guidelines, which are discussed below under the Need for Rulemaking. See 49 CFR 37.9 and Appendix A to 49 CFR part 37.

The Department of Justice is responsible for overall enforcement of Title II of the Americans with Disabilities Act. The Department of Justice has designated the Department of Transportation as the federal agency responsible for investigating complaints and conducting compliance reviews "relating to programs, services, and regulatory activities relating to transportation, including highways." See 28 CFR 35.190 (b) (8).

Section 504 of the Rehabilitation Act

2. Other titles of the Americans with Disabilities Act cover employers (Title I), private entities that own, lease, or operate places of public accommodation and commercial facilities (Title III), and telecommunications (Title IV). This preamble focuses on Title II because pedestrian facilities in the public right-of-way are constructed and altered by state and local governments.
3. Title II of the Americans with Disabilities Act contains two subtitles. Subtitle A applies to all state and local government programs, services, and activities. Subtitle B contains two parts. Subtitle B, Part I applies to designated public transportation provided by state and local governments by bus, rail, or other conveyance (other than aircraft or intercity or commuter rail) as a general or special service (including charter service) to the general public on a regular and continuing basis. Subpart B, Part II applies to public transportation provided by the National Railroad Passenger Corporation and commuter authorities by intercity and commuter rail. The Department of Justice is responsible for issuing regulations to implement Subtitle A of Title II, except for matters within the scope of authority of the Department of Transportation under Parts I and II of Subtitle B of Title II. See 42 U.S.C. 12134. The Department of Transportation is responsible for issuing regulations to implement Parts I and II of Subtitle B of Title II. See 42 U.S.C. 12149 and 12164.
4. Subtitle A of Title II of the Americans with Disabilities Act requires that the regulations issued by the Department of Justice include accessibility standards that are "consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board." 42 U.S.C. 12134(c). The accessibility standards issued by the Department of Justice can include additional or modified requirements provided they are consistent with the Access Board's guidelines.

Public Rights-of-Way Accessibility Guidelines: Preamble

Section 504 of the Rehabilitation Act (29 U.S.C. 794) (hereinafter referred to as “Section 504”) prohibits discrimination against individuals with disabilities under any program or activity receiving federal financial assistance. The term “program or activity” includes all the operations of a state or local government entity that receives federal financial assistance directly or indirectly from the federal government. See 29 U.S.C. 794 (b). Each federal agency that provides federal financial assistance is responsible for issuing regulations to implement Section 504 that are consistent with requirements established by the Department of Justice. See Executive Order 12250 in Appendix A to 28 CFR part 41. The Department of Justice requires facilities designed, constructed, or altered by recipients of federal financial assistance to be accessible to individuals with disabilities. See 28 CFR 41.58.

The Department of Transportation provides federal financial assistance to state and local governments for the development of transportation networks, including pedestrian facilities in the public right-of-way.⁷ The regulations issued by the Department of Transportation to implement Section 504 require facilities designed, constructed, or altered by recipients of federal financial assistance from the Department to comply with accessibility standards included in the Department’s regulations implementing the public transportation parts of Title II of the Americans with Disabilities Act, or the Uniform Federal Accessibility Standards. See 49 CFR §27.3. As discussed above, the accessibility standards included in the Department of Transportation regulations implementing the public transportation parts of Title II of the Americans with Disabilities Act adopt, with additions and modifications, the Access Board’s current guidelines, which are discussed below under the Need for Rulemaking. See 49 CFR 37.9 and Appendix A to 49 CFR part 37.

The Department of Transportation is responsible for investigating complaints and conducting compliance reviews under Section 504 relating to recipients of federal financial assistance from the Department. See 49 CFR 27.121 and 27.123.

Architectural Barriers Act

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5. In September 2010, the Department of Justice issued regulations with revised accessibility standards for Titles II and III of the Americans with Disabilities Act (DOJ 2010 Standards). See 75 FR 56164 (September 15, 2010). Compliance with the DOJ 2010 Standards is required on or after March 15, 2012. State and local governments are permitted to comply with earlier standards (DOJ 1991 Standards without the elevator exception or UFAS) or the DOJ 2010 Standards between September 15, 2010 and March 14, 2012. Additional information on the applicable standards and their effective dates is available on the Department of Justice website at: http://www.ada.gov/revised_effective_dates-2010.htm. The DOJ 2010 Standards are available on the Department of Justice website at: http://www.ada.gov/2010ADASTandards_index.htm.
 6. Parts I and II of Subtitle B of Title II of the Americans with Disabilities Act require that the regulations issued by the Department of Transportation include accessibility standards that are “consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board.” 42 U.S.C. 12149 (b) and 12163. The accessibility standards issued by the Department of Transportation can include additional or modified requirements provided they are consistent with the Access Board’s guidelines.
 7. See Department of Transportation “Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations” at: <http://www.dot.gov/affairs/2010/bicycle-ped.html>.
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The Architectural Barriers Act (42 U.S.C. 4151 et seq.) requires certain facilities financed with federal funds to be accessible to individuals with disabilities. The Architectural Barriers Act covers facilities financed in whole or part by a federal grant or loan where the federal agency that provides the grant or loan is authorized to issue standards for the design, construction, or alteration of the facilities.⁸ See 42 U.S.C. 4151 (3). The General Services Administration is required to issue accessibility standards for facilities covered by the Architectural Barriers Act.⁹ See 42 U.S.C. 4156. The accessibility standards issued by the General Services Administration adopt, without any additions or modifications, the Access Board's current guidelines, which are discussed below under the Need for Rulemaking. See 41 CFR 102-76.65.

The Access Board is responsible for enforcing the Architectural Barriers Act. See 29 U.S.C 792 (b) (1) and (e).

Need for Rulemaking

This section discusses the Congressional findings in the Americans with Disabilities Act that establish the need for accessibility guidelines, the Access Board's current accessibility guidelines, and why the Access Board is proposing to issue accessibility guidelines for pedestrian facilities in the public right-of-way.

Congressional Findings of Discrimination

The Americans with Disabilities Act was enacted in 1990 by overwhelming bipartisan majorities in the House of Representatives (377 – 28) and in the Senate (91 – 6).¹⁰ Congress compiled an extensive record of the discrimination experienced by individuals with disabilities in critical areas such as employment, public accommodations, state and local government services, and transportation. Congress found that “despite some improvements such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem.” 42 U.S.C. 12101 (a) (2). Among the forms of discrimination that Congress found to be a continuing problem are “the discriminatory effects of architectural, transportation, and communication barriers.” 42 U.S.C. 12101 (a) (5). Congress found that “the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.” 42 U.S.C. 12101 (a) (9). Congress declared that “the Nation's proper goals regarding individuals with disabilities are to ensure equality of opportunity, full

8. The Architectural Barriers Act also covers facilities constructed, altered, or leased by federal agencies; and facilities constructed or altered by the Washington Metropolitan Area Transit Authority. See 42 U.S.C. 4151 (1), (2), and (4).

9. The accessibility standards issued by the General Services Administration apply to all facilities covered by the Architectural Barriers Act, except for postal, military, and residential facilities. The United States Postal Service is responsible for issuing accessibility standards for postal facilities; the Department of Defense is responsible for issuing accessibility standards for military facilities; and the Department of Housing and Urban Development is responsible for issuing accessibility standards for residential facilities. See 42 U.S.C. 4153, 4154, and 4154a.

10. 101 Cong. Rec. H4629 and 4630 (July 12, 1990); 101 Cong. Rec. S9695 (July 13, 1990).

Public Rights-of-Way Accessibility Guidelines: Preamble

participation, independent living, and economic self-sufficiency for such individuals.” 42 U.S.C. 12101 (a) (8).

The purpose of the Americans with Disabilities Act is “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and “to provide clear, strong, and consistent, enforceable standards addressing discrimination against individuals with disabilities.” 42 U.S.C. 12101 (b) (1) and (2). Congress directed the Access Board to supplement the accessibility guidelines developed earlier for the Architectural Barriers Act to include “additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible in terms of architecture and design, transportation, and communication, to individuals with disabilities.” 42 U.S.C. 12204 (b).

Current Guidelines Developed Primarily for Buildings and Facilities on Sites

The Access Board’s current accessibility guidelines were issued in 2004 and are known as the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines (hereinafter referred to as “2004 ADA and ABA Accessibility Guidelines”).¹¹ 69 FR 44083 (July 23, 2004). The 2004 ADA and ABA Accessibility Guidelines revised and updated the Americans with Disabilities Act Accessibility Guidelines, which were issued by the Access Board in 1991 (hereinafter referred to as “1991 ADAAG”). 56 FR 35408 (July 26, 1991). The requirements in the 1991 ADAAG and 2004 ADA and ABA Accessibility Guidelines were developed primarily for buildings and facilities on sites.¹² Some of the requirements can be readily applied to pedestrian facilities in the public right-of-way. However, other requirements need to be adapted for pedestrian facilities in the public right-of-way.

11. The 2004 ADA and ABA Accessibility Guidelines are codified in 36 CFR part 1191 and consist of six appendices:

- Appendix A is the Table of Contents to the guidelines;
- Appendix B contains ADA Chapters 1 and 2, which include application and scoping requirements for the design, construction, and alteration of facilities covered by the Americans with Disabilities Act;
- Appendix C contains ABA Chapters 1 and 2, which include application and scoping requirements for the design, construction, and alteration of facilities covered by the Architectural Barriers Act;
- Appendix D contains Chapters 3 through 10, which include common technical requirements for the design, construction, and alteration of facilities covered by the Americans with Disabilities Act or the Architectural Barriers Act;
- Appendix E contains the index of terms and list of figures included in the guidelines; and
- Appendix F contains additions and modifications to the guidelines issued by the Department of Transportation.

The DOJ 2010 Standards and the Department of Transportation standards for transportation facilities used in the provision of transportation services covered by the transportation parts of Title II of the ADA and facilities covered by Section 504 adopt Appendices B and D, with additions and modifications. The General Services Administration standards for facilities covered by the Architectural Barriers Act adopt Appendices C and D, without additions and modifications.

12. The term “site” is defined in the 1991 ADAAG (see 3.5) and 2004 ADA and ABA Accessibility Guidelines (see 106.5 and F106.5) as a “parcel of land bounded by a property line or a designated portion of a public right-of-way.”

Proposed Guidelines Developed Specifically for Pedestrian Facilities in the Public Right-of-Way

The proposed guidelines are developed specifically for pedestrian facilities in the public right-of-way and address conditions and constraints that exist in the public right-of-way. As discussed below under the Major Issues, the requirements in the proposed guidelines make allowances for typical roadway geometry and permit flexibility in alterations to existing facilities where existing physical constraints make it impractical to fully comply with new construction requirements. The proposed guidelines also include requirements for elements and facilities that exist only in the public right-of-way such as pedestrian signals and roundabouts.

Rulemaking History

The Access Board began developing accessibility guidelines for pedestrian facilities in the public right-of-way shortly after the Americans with Disabilities Act was enacted in 1990. Proposed guidelines for state and local government facilities, including pedestrian facilities in the public right-of-way, were initially issued in 1992. 57 FR 60612 (December 21, 1992). Interim guidelines were issued in 1994. 59 FR 31676 (June 20, 1994). Final guidelines were issued in 1998, but did not include requirements for pedestrian facilities in the public right-of-way because comments submitted on the proposed and interim guidelines demonstrated a need for additional research, as well as education and outreach. 63 FR 2000 (January 13, 1998).

The Access Board subsequently sponsored research on accessible pedestrian signals and pedestrian pushbuttons, detectable warning surfaces, and pedestrian facilities at roundabouts.¹³ The Access Board also produced a series of videos, a design guide, and an accessibility checklist for pedestrian facilities in the public right-of-way, and conducted training programs around the country. The Access Board coordinated its work with organizations representing state and local government transportation officials and other transportation industry professionals, including the American Association of State Highway and Transportation Officials, Institute of Transportation Engineers, National Committee on Uniform Traffic Control Devices, and Transportation Research Board.

The Access Board established a federal advisory committee in 1999 to recommend accessibility guidelines for pedestrian facilities in the public right-of-way. The advisory committee included representatives of state and local governments, the transportation industry, disability organizations, and other interested groups.¹⁴ The advisory committee provided significant sources of expertise and produced consensus recommendations for accessibility guidelines for pedestrian facilities in the public right-of-way. The advisory committee presented its recommendations, "Building a True Community: Final Report of the Public Rights-of-Way Access Advisory Committee", to the Access Board in 2001.¹⁵

The Access Board developed draft accessibility guidelines for pedestrian facilities in the public right-of-way based on the advisory committee's recommendations, and made the draft guidelines available for public review and comment in 2002.¹⁶ 67 FR 41206 (June 17, 2002). The Access Board revised the

13. The reports on the research sponsored by the Access Board and technical assistance materials on accessible design of pedestrian facilities in the public right-of-way are available on the Access Board website at: <http://www.access-board.gov/prowac/index.htm>.

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draft guidelines in 2005 and made the revised draft guidelines available for public review to facilitate the gathering of data for a regulatory assessment of the potential costs and benefits of the guidelines. 70 FR 70734 (November 23, 2005). The Access Board entered into an interagency agreement with the Volpe National Transportation Systems Center (Volpe Center) to gather data and prepare cost estimates for the regulatory assessment.¹⁷

Major Issues

Transportation officials who commented on the 2002 draft guidelines raised some major issues that are addressed below.

Alterations to Existing Facilities

The draft guidelines required alterations to existing facilities to comply with the requirements for new construction to the maximum extent feasible. Most of the improvements in the public right-of-way involve alterations to existing facilities. Transportation officials noted that the meaning of the term “to the maximum extent feasible” was not clear and wanted additional guidance on how to apply the guidelines when existing facilities are altered.

The proposed guidelines clarify that where elements, spaces, or facilities are altered, each altered element, space, or facility within the scope of the project must comply with the applicable requirements for new construction (see R202.3). The phrase “within the scope of the project” is intended to focus on whether the alteration project presents an opportunity to design the altered element, space, or facility in an accessible manner. It is not intended for additional work to be done outside the scope of the project. For example, if an alteration project involves only installing pedestrian signals at existing intersections and there are no detectable warning surfaces on the curb ramps at the intersections, the proposed

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14. The following organizations were members of the advisory committee: AARP, America Walks, American Association of State Highway and Transportation Officials, American Council of the Blind, American Institute of Architects, American Public Transit Association, American Public Works Association, Association for Education and Rehabilitation of the Blind and Visually Impaired, Bicycle Federation of America, Californians for Disability Rights, Canadian Standards Association (Technical Committee on Barrier-Free Design), City of Birmingham (Department of Planning, Engineering and Permits), Council of Citizens with Low Vision International, Disability and Business Technical Assistance Centers, Disability Rights Education and Defense Fund, Federal Highway Administration, Hawaii Commission on Persons with Disabilities, Hawaii Department of Transportation, Institute of Traffic Engineers, Los Angeles Department of Public Works (Bureau of Street Services), Massachusetts Architectural Access Board, Municipality of Anchorage, National Center for Bicycling and Walking, National Council on Independent Living, National Federation of the Blind, New York State Department of Transportation, Paralyzed Veterans of America, Portland Office of Transportation, San Francisco Mayor’s Office on Disability, State of Alaska, TASH, Texas Department of Transportation, and The Seeing Eye.
 15. The advisory committee report is available on the Access Board website at: <http://www.access-board.gov/prowac/commrept/index.htm>.
 16. The 2002 and 2005 draft guidelines and comments submitted on the 2002 draft guidelines are available on the Access Board website at: <http://www.access-board.gov/prowac/index.htm>.
 17. Volpe Center, “Cost Analysis of Public Rights-of-Way Accessibility Guidelines” (November 29, 2010). The document is available in the rulemaking docket (ATBCB-2011-0004) at: <http://www.regulations.gov>.

guidelines would require accessible pedestrian signals and pedestrian pushbuttons to be provided at the intersections because they are within the scope of the project, but would not require detectable warning surfaces to be provided on the curb ramps because they are not within the scope of the project. The proposed guidelines also clarify that where elements are altered or added to existing facilities but the pedestrian circulation path to the altered or added elements is not altered, the pedestrian circulation path is not required to comply with the proposed requirements for pedestrian access routes (see R202.1). For example, if a new bench is installed on a sidewalk that has a cross slope exceeding 2 percent, the sidewalk is not required to be altered to reduce the cross slope because the bench is installed on the sidewalk.

In addition, the proposed guidelines recognize that it is not always possible for altered elements, spaces, or facilities to fully comply with new construction requirements because of existing physical constraints. Where existing physical constraints make it impracticable for altered elements, spaces, or facilities to fully comply with the requirements for new construction, compliance is required to the extent practicable within the scope of the project (see R202.3.1). Existing physical constraints include, but are not limited to, underlying terrain, right-of-way availability, underground structures, adjacent developed facilities, drainage, or the presence of a notable natural or historic feature. The proposed guidelines permit flexibility in alterations to existing facilities where needed.

Existing Facilities That Are Not Altered

Transportation officials expressed concern about application of the draft guidelines to existing facilities that are not altered. The proposed guidelines clarify that the guidelines do not address existing facilities unless they are included within the scope of an alteration undertaken at the discretion of a covered entity (see R101.2).

The Department of Justice regulations implementing Title II of the Americans with Disabilities Act contain requirements for state and local governments regarding program accessibility and existing facilities. See 28 CFR 35.150. The Department of Transportation regulations implementing Section 504 also contain requirements for recipients of federal financial assistance from the Department regarding compliance planning. See 49 CFR 27.11 (c). The Access Board acknowledges that transportation officials are concerned about their obligations under the Title II of the Americans with Disabilities Act and Section 504 for existing facilities that are not altered, but the Access Board does not have the authority to address the application of the proposed guidelines to existing facilities that are not altered. When the Department of Justice and Department of Transportation conduct rulemaking to include accessibility standards for pedestrian facilities in the public right-of-way in regulations implementing Title II of the Americans with Disabilities Act and Section 504, they will address the application of the accessibility standards to existing facilities that are not altered. Comments concerning existing facilities that are not altered should be directed to the Department of Justice and Department of Transportation when they conduct rulemaking to include accessibility standards for pedestrian facilities in the public right-of-way in regulations implementing Title II of the Americans with Disabilities Act and Section 504.

Allowances for Typical Roadway Geometry

The 1991 ADAAG and 2004 ADA and ABA Accessibility Guidelines specify a maximum running slope of 5 percent and maximum cross slope of 2 percent for walking surfaces on accessible routes. The draft

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guidelines adapted these requirements for pedestrian access routes in the public right-of-way and made an allowance for typical roadway geometry by permitting the grade of pedestrian access routes within sidewalks to equal the general grade established for the adjacent street or highway. The draft guidelines also permitted the cross slope of pedestrian access routes within midblock pedestrian street crossings and of curb ramps at midblock pedestrian street crossings to equal the street or highway grade.

Transportation officials recommended that additional allowances be made for typical roadway geometry. The proposed guidelines include the following allowances for typical roadway geometry:

- The grade of pedestrian access routes within sidewalks is permitted to equal the general grade established for the adjacent street or highway (see R302.5).
- A maximum cross slope of 5 percent is permitted for pedestrian access routes within pedestrian street crossings without yield or stop control where vehicles can proceed through the intersection without slowing or stopping (see R302.6.1).
- The cross slope of pedestrian access routes within midblock pedestrian street crossings is permitted to equal the street or highway grade (see R302.6.2).
- The cross slope of curb ramps, blended transitions, and turning spaces at pedestrian street crossings without yield or stop control where vehicles can proceed through the intersection without slowing or stopping, and at midblock pedestrian street crossings are permitted to equal the street or highway grade (see R304.5.3).
- Clear spaces required at accessible pedestrian signals and pedestrian pushbuttons and at other accessible elements are permitted to have a running slope consistent with the grade of the adjacent pedestrian access route (see R404.2).

A maximum grade of 5 percent and maximum cross slope of 2 percent are required otherwise for pedestrian access routes within sidewalks and pedestrian street crossings (see R302.5 and R302.6).

Overview of Proposed Guidelines

The proposed guidelines apply to pedestrian facilities in the public right-of-way. The proposed guidelines define the public right-of-way to mean “public land or property, usually in interconnected corridors, that is acquired for or dedicated to transportation purposes” (see R105.5). The proposed guidelines ensure that the following facilities for pedestrian circulation and use located in the public right-of-way are readily accessible to and usable by pedestrians with disabilities:

- Sidewalks, pedestrian overpasses and underpasses, and other pedestrian circulation paths, including requirements for pedestrian access routes, alternate pedestrian access routes when pedestrian circulation paths are temporarily closed, and protruding objects along or overhanging pedestrian circulation paths;
- Pedestrian street crossings, medians, and pedestrian refuge islands, including requirements for curb ramps or blended transitions, and detectable warning surfaces;
- Pedestrian street crossings at roundabouts, including requirements for detectable edge treatments where pedestrian crossing is not intended, and pedestrian activated signals at multi-lane pedestrian street crossings;
- Pedestrian street crossings at multi-lane channelized turn lanes at roundabouts and at other signalized intersections, including requirements for pedestrian activated signals;

- Pedestrian signals, including requirements for accessible pedestrian signals and pedestrian pushbuttons;
- Transit stops and transit shelters for buses and light rail vehicles, including requirements for boarding and alighting areas at sidewalk or street level, boarding platforms, and route signs;
- Pedestrian at-grade rail crossings, including requirements for flangeway gaps;
- On-street parking that is marked or metered, and passenger loading zones;
- Pedestrian signs, including requirements for visible characters on signs and alternative requirements for audible sign systems and other technologies;
- Street furniture for pedestrian use, including drinking fountains, public toilet facilities, tables, counters, and benches; and
- Ramps, stairways, escalators, handrails, doors, doorways, and gates.

Use of Mandatory Language in Proposed Guidelines

The proposed guidelines use the mandatory language “shall” and “requirement” because the guidelines are intended to be adopted, with or without additions and modifications, as accessibility standards in regulations issued by other federal agencies implementing Title II of the Americans with Disabilities Act, Section 504, and the Architectural Barriers Act. In this regard, the proposed guidelines are analogous to model codes. Model codes use mandatory language but compliance with model codes is not mandatory until they are adopted by a state or local government. When the Access Board’s guidelines are adopted, with or without additions and modifications, as accessibility standards in regulations issued by other federal agencies implementing Title II of the Americans with Disabilities Act, Section 504, and the Architectural Barriers Act, compliance with the accessibility standards is mandatory. The other federal agencies will conduct separate rulemakings to include accessibility standards for pedestrian facilities in the public right-of-way in regulations implementing Title II of the Americans with Disabilities Act, Section 504, and the Architectural Barriers Act. The other federal agencies will establish the effective dates for compliance with the accessibility standards when they complete their rulemakings. The other federal agencies may permit use of the proposed guidelines as best practices pending the completion of their rulemakings. However, the proposed guidelines are not legally enforceable until adopted, with or without additions and modifications, as accessibility standards by other federal agencies in regulations implementing Title II of the Americans with Disabilities Act, Section 504, and the Architectural Barriers Act.

Impacts on State and Local Governments

When the proposed guidelines are adopted, with or without additions and modifications, as accessibility standards by other federal agencies in the regulations implementing Title II of the Americans with Disabilities Act, Section 504, and the Architectural Barriers Act, the accessibility standards will apply to units of state and local government that construct streets and highways.¹⁸ For ease of reference, these

18. Private entities that design, construct, or alter places of public accommodation or commercial facilities on sites are required to comply with accessibility standards included in regulations issued by the Department of Justice to implement Title III of the Americans with Disabilities Act. See 28 CFR 36.401 through 36.406. State or local laws may require sites with frontage on the public right-of-way or frontage that will revert to the public right-of-way to make frontage improvements in accordance with state or local standards which contain accessibility requirements that are similar to the proposed guidelines.

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state and local governmental units are referred to as “state and local transportation departments” in this preamble but may go by different names (e.g., public works departments, or highway or streets departments) in their respective jurisdictions. State and local transportation departments may be required to comply with three accessibility standards. For example, a state or local transportation department that finances the design, construction, or alteration of a pedestrian facility in the public right-of-way with a federal grant or loan from the Department of Transportation would be required to comply with the accessibility standards issued by the Department of Justice in regulations implementing Title II of the Americans with Disabilities Act, the accessibility standards issued by the Department of Transportation in regulations implementing Section 504, and the accessibility standards issued by the General Services Administration in regulations implementing the Architectural Barriers Act. All three accessibility standards would be basically uniform because they adopt the proposed guidelines, but may vary to the extent that Department of Justice, Department of Transportation, and General Services Administration include additions or modifications to the proposed guidelines in their accessibility standards.

The Access Board prepared a regulatory assessment of the potential costs and benefits of the proposed guidelines. The regulatory assessment is available in the regulatory docket at <http://www.regulations.gov> and on the Access Board website at: <http://www.access-board.gov/prowac/index.htm>. The proposed guidelines are compared to a baseline to assess their potential costs and benefits. The baseline is how state and local transportation departments would design and construct pedestrian facilities in the public right-of-way in the absence of the proposed guidelines. All state transportation departments maintain design manuals and standard drawings for improvements in the public right-of-way.¹⁹ Most local transportation department also maintain design manuals and standard drawings for improvements in the public right-of-way that are consistent with the design manuals and standard drawings maintained by their state transportation departments. State and local transportation departments use publications issued by the American Association of State and Highway Transportation Officials (AASHTO) in their design manuals and standard drawings, including the “Policy on Geometric Design of Highways and Streets” (2004) (commonly referred to as the “AASHTO Green Book”) and the “Guide for the Planning, Design, and Operation of Pedestrian Facilities” (2004) which incorporate accessibility in the design of sidewalks and other pedestrian facilities.²⁰ The Federal Highway Administration as part of its stewardship and oversight responsibilities has also worked with state transportation departments to incorporate accessibility in their design manuals and standards drawings. The Federal Highway Administration has issued guidance that the accessibility standards in the Department of Justice regulations implementing Title II of the Americans with Disabilities Act and the Department of Transportation regulations implementing Section 504 “are to be used to the extent feasible” for the design of pedestrian facilities in the public right-of-way until new accessibility standards

19. Links to the design manuals and standard drawings maintained by state transportation departments are available on the Federal Highway Administration website at: <http://www.fhwa.dot.gov/programadmin/statemanuals.cfm> and <http://www.fhwa.dot.gov/programadmin/statestandards.cfm>.

20. The AASHTO “Policy on Geometric Design of Highways and Streets” and “Guide for the Planning, Design, and Operation of Pedestrian Facilities” incorporate accessibility in the design of sidewalks, including minimum clear width, passing spaces, grade, cross slope, protruding objects, and surface treatments; curb ramps, including detectable warning surfaces; pedestrian overpasses and underpasses; and transit stops and transit shelters.

are adopted for these facilities.²¹ The Federal Highway Administration has also issued guidance that the 2005 draft of the proposed guidelines for pedestrian facilities in the public right-of-way “are the currently recommended best practices, and can be considered the state of the practice that could be followed for areas not fully addressed” in the existing accessibility standards.²²

In the absence of the proposed guidelines, the regulatory assessment assumes that state and local transportation departments will use the revised accessibility standards in the Department of Justice regulations implementing Title II of the Americans with Disabilities Act (hereinafter referred to as “DOJ 2010 Standards”) to the extent feasible when designing, constructing, or altering pedestrian facilities in the public right-of-way, consistent with the guidance issued by the Federal Highway Administration, as well as other applicable standards and industry practices.²³ An analysis of the proposed guidelines compared to the DOJ 2010 Standards, other applicable standards, and industry practices is included in the appendix to the regulatory assessment. The analysis consists of three tables.

Table 1. Proposed Guidelines Contain Same Requirements as in DOJ 2010 Standards

Table 1 analyzes requirements in the proposed guidelines that are the same as requirements in the DOJ 2010 Standards.²⁴ The requirements in the proposed guidelines in Table 1 will have no impacts on state and local transportation departments compared to the requirements in the DOJ 2010 Standards because the requirements are the same.

Table 2. Proposed Guidelines Adapt Requirements in DOJ 2010 Standards

Table 2 analyzes requirements in the proposed guidelines that adapt requirements in the DOJ 2010 Standards to allow for conditions and constraints in the public right-of-way.²⁵ The requirements in the proposed guidelines in Table 2 do not establish greater requirements for accessibility in the public right-

21. See Federal Highway Administration, Office of Program Administration, “Pedestrians and Accessible Design” at: <http://www.fhwa.dot.gov/programadmin/pedestrians.cfm>. When the guidance was issued, the applicable accessibility standards in the Department of Justice regulations implementing Title II of the Americans with Disabilities Act and the Department of Transportation regulations implementing Section 504 adopted the 1991 ADAAG and permitted the Uniform Federal Accessibility Standards to be used.

22. See Federal Highway Administration, “Public Rights-of-Way Access Advisory” (January 23, 2006) at: <http://www.fhwa.dot.gov/environment/bikeped/prwaa.htm>.

23. See footnote 5 regarding the DOJ 2010 standards and effective dates.

24. The requirements analyzed in Table 1 include: drinking fountains, public toilet facilities, tables, counters, passenger loading zones, ramps, stairways, handrails, doors, doorways, gates, operable parts, clear spaces, knee and toe clearance, and reach ranges.

25. The requirements analyzed in Table 2 include: sidewalks and other pedestrian circulation paths, pedestrian street crossings, pedestrian overpasses and underpasses, pedestrian at-grade rail crossings, curb ramps and blended transitions, protruding objects, transit stops and transit shelters used by buses and light rail vehicles, on-street parking, and escalators. The requirements for transit stops and transit shelters used by buses and light vehicles are compared to the accessibility standards in the Department of Transportation regulations implementing the public transportation parts of Title II of the Americans with Disabilities Act.

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of-way than the requirements in the DOJ 2010 Standards and industry practices. Some of the requirements in the proposed guidelines in Table 2 establish lesser requirements for accessibility in the public right-of-way than the requirements in the DOJ 2010 Standards. For example, where the pedestrian access route in a sidewalk is contained within the street or highway right-of-way, the grade of the pedestrian access route is permitted to equal the general grade established for the adjacent street or highway to allow for typical roadway geometry instead of the running slope requirements for accessible routes on sites. The requirements in the proposed guidelines in Table 2 will have no impacts on state and local transportation departments compared to the requirements in the DOJ 2010 Standards and industry practices, except for the 2 percent maximum cross slope requirement for pedestrian access routes contained within pedestrian street crossings with stop or yield control where vehicles slow or stop before proceeding through the intersection (see R204.3 and R302.6). This requirement will have more than minimal impacts on the design and construction of new tabled intersections in hilly urban areas that contain pedestrian street crossings with stop or yield control. The impacts are analyzed in the regulatory assessment and discussed below under Cross Slope (R302.6) in the Section-by-Section Analysis.

Table 3. Proposed Guidelines Contain Requirements Not in DOJ 2010 Standards

Table 3 analyzes requirements in the proposed guidelines for which there are no corresponding requirements in the DOJ 2010 Standards.²⁶ The requirements in the proposed guidelines in Table 3 are compared to other applicable accessibility standards and the 2009 edition of Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD). Where the requirements in the proposed guidelines in Table 3 are the same as the requirements in other applicable accessibility standards or the MUTCD, the requirements will have no impacts on state and local transportation departments. Where a requirement in the proposed guidelines in Table 3 differs from a corresponding requirement in other applicable accessibility standards or there is no corresponding requirement in other applicable accessibility standards, the analysis used the following factors to identify whether the requirement will have more than minimal impacts on state and local transportation departments:

- Whether the requirement can be easily incorporated into the design of the element or facility?
- Whether the requirement adds features to the element or facility?
- Whether the requirement reduces space needed for other purposes?
- What are the additional costs due to the requirement compared to the total design and construction costs for the element or facility?

A requirement that can be easily incorporated into the design of an element or facility, and does not add features to the element or facility or reduce space needed for other purposes will have minimal impacts on state and local transportation departments. A requirement that cannot be easily incorporated into the design of an element or facility, adds features to the element or facility, or reduces space needed for other purposes and that results in additional costs compared to the total design and construction costs of

26. The requirements analyzed in Table 3 include: alternate pedestrian access routes, pedestrian signal phase timing, accessible pedestrian signals and pedestrian pushbuttons, pedestrian street crossings at roundabouts, detectable warning surfaces on curb ramps and blended transitions at pedestrian street crossings, detectable warning surfaces on pedestrian at-grade rail crossings not located within a street or highway, pedestrian signs, and benches.

the element or facility which are not negligible (i.e., are worth considering) will have more than minimal impacts on state and local transportation departments.

The analysis identified three requirements in the proposed guidelines in Table 3 that will have more than minimal impacts on state and local transportation departments:

- Detectable warning surfaces on curb ramps and blended transitions at pedestrian street crossings (see R208.1 and R305);
- Accessible pedestrian signals and pedestrian pushbuttons (see R209); and
- Pedestrian activated signals at roundabout intersections with multi-lane pedestrian street crossings (see R206 and R306.3.2).

The impacts of these requirements are analyzed in the regulatory assessment and are discussed below under the relevant requirements in the Section-by-Section Analysis.

Question 1. Comments are requested on whether other requirements in the proposed guidelines will have more than minimal impacts on state and local transportation departments, in addition to the requirements identified in Tables 2 and 3. Comments should:

- Identify the requirement by section number or other information that identifies the specific requirement;
- Explain why the requirement will have more than minimal impacts using the factors described above or other appropriate factors; and
- Provide estimates of the additional costs due to the requirement compared to the total design and construction costs for the element or facility.

Question 2. Comments are requested on whether the requirements in the proposed guidelines have any unintended positive or negative consequences.

Question 3. Comments are requested on alternative regulatory approaches for achieving the objectives of the Americans with Disabilities Act, Section 504, and Architectural Barriers Act to eliminate the discriminatory effects of architectural, transportation, and communication barriers in the design and construction of pedestrian facilities in the public right-of-way.

Section-by-Section Analysis

The proposed guidelines consist of four chapters. Chapter R1 addresses the application and administration of the proposed guidelines. Chapter R2 contains scoping requirements. Chapter R3 contains technical requirements. Chapter R4 contains supplementary technical requirements, which are the same as in the 2004 ADA and ABA Accessibility Guidelines with a few exceptions. The sections in each chapter are discussed below. Sections marked as “advisory” contain advisory information related to the preceding section. Advisory sections do not establish mandatory requirements. Some advisory sections reference related mandatory requirements to alert readers about those requirements.

The Access Board is committed to writing guidelines that are clear, concise, and easy to understand so that persons who use the guidelines know what is required. If any of the proposed guidelines are

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ambiguous or not clear, point out the problematic language in your comments so it can be improved in the final guidelines.

Chapter R1: Application and Administration**R101 Purpose**

The proposed guidelines contain scoping and technical requirements to ensure that facilities for pedestrian circulation and use located in the public right-of-way are readily accessible to and usable by pedestrians with disabilities. When the guidelines are adopted, with or without additions and modifications, as accessibility standards in regulations issued by other federal agencies implementing Title II of the Americans with Disabilities Act, Section 504, and the Architectural Barriers Act, compliance with the accessibility standards is mandatory.

The proposed guidelines do not address existing facilities unless they are included within the scope of an alteration to an existing facility undertaken at the discretion of a covered entity. The Department of Justice regulations implementing Title II of the Americans with Disabilities Act contain requirements for state and local governments regarding program accessibility and existing facilities. See 28 CFR 35.150. The Department of Transportation regulations implementing Section 504 also contain requirements for recipients of federal financial assistance from the Department regarding compliance planning. See 49 CFR 27.11 (c). As discussed above under the Major Issues, transportation officials who commented on the 2002 draft guidelines expressed concern about existing facilities that are not altered. When the Department of Justice and Department of Transportation conduct rulemaking to include accessibility standards for pedestrian facilities in the public right-of-way in regulations implementing Title II of the Americans with Disabilities Act and Section 504, they will address the application of the accessibility standards to existing facilities that are not altered. Comments concerning existing facilities that are not altered should be directed to the Department of Justice and Department of Transportation when they conduct rulemaking to include accessibility standards for pedestrian facilities in the public right-of-way in regulations implementing Title II of the Americans with Disabilities Act and Section 504.

R102 Equivalent Facilitation

The use of alternative designs, products, or technologies that result in substantially equivalent or greater accessibility and usability than the proposed guidelines is permitted.

R103 Conventions

Conventional industry tolerances apply where dimensions are not stated as a range. Where the required number of accessible facilities or elements is based on ratios or percentages and remainders or fractions result, the next greater whole number is required. Where the required size or dimension of a facility or element is based on ratios or percentages, rounding down for values less than one half is permitted. Measurements are stated in metric and U.S. customary units, and each system of measurement is to be used independently of the other.

R104 Referenced Standards

The proposed guidelines incorporate by reference certain standards in the 2009 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD). The referenced MUTCD standards are discussed below under the relevant requirements regarding the provision of alternate pedestrian access routes when a pedestrian circulation path is temporarily closed, the provision of accessible pedestrian signals and pedestrian pushbuttons, and pedestrian signal phase timing. The MUTCD is available on the Federal Highway Administration website at: <http://mutcd.fhwa.dot.gov>.

R105 Definitions

The proposed guidelines incorporate the MUTCD definitions for the following terms: highway, intersection, island, median, pedestrian, roundabout, sidewalk, splitter island, and street. The proposed guidelines define the following terms: accessible, alteration, blended transition, cross slope, curb line, curb ramp, element, facility, grade break, operable part, pedestrian access route, pedestrian circulation path, public right-of-way, qualified historic facility, running slope, and vertical surface discontinuities. These definitions are discussed in the sections where the terms are used. Collegiate dictionaries are used to determine the meaning of terms that are not defined in the proposed guidelines, referenced MUTCD standards, or regulations issued by federal agencies that adopt the proposed guidelines as accessibility standards. Singular and plural words, terms, and phrases are used interchangeably.

Chapter R2: Scoping Requirements

Scoping requirements specify what pedestrian facilities must comply with the proposed guidelines. Some of the scoping requirements are triggered where certain pedestrian facilities are provided such as pedestrian signals (see R209), street furniture (see R212), transit stops and transit shelters (see R213), on-street parking (see R214), and passenger loading zones (see R215). The scoping requirements reference the technical requirements that each pedestrian facility must comply with in order to be considered accessible. The technical requirements are discussed in Chapters R3 and R4.

R201 Application

The proposed guidelines apply to newly constructed facilities, altered portions of existing facilities, and elements added to existing facilities for pedestrian circulation and use located in the public right-of-way. The proposed guidelines apply to both permanent and temporary facilities in the public right-of-way. An advisory section provides examples of temporary facilities in the public right-of-way that are covered by the scoping requirements (e.g., temporary pedestrian circulation routes around work zones and portable public toilets).

Buildings and structures in the public right-of-way that are not covered by the proposed guidelines must comply with the applicable requirements in the 2004 ADA and ABA Accessibility Guidelines. An advisory section provides examples of buildings and structures in the public right-of-way that are not covered by the proposed guidelines and must comply with the applicable requirements in the 2004 ADA and ABA Accessibility Guidelines (e.g., towers and temporary performance stages and reviewing stands).

R202 Alterations and Elements Added to Existing Facilities

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The proposed guidelines apply to alterations and elements added to existing facilities. Alterations are changes to an existing facility that affect or could affect pedestrian access, circulation, or use (see R105.5). Alterations include, but are not limited to, resurfacing, rehabilitation, reconstruction, historic restoration, or changes or rearrangement of structural parts or elements of a facility. The Department of Justice and Department of Transportation may provide guidance on the meaning of the word “resurfacing” when they conduct rulemaking to include accessibility standards for pedestrian facilities in the public right-of-way in regulations implementing Title II of the Americans with Disabilities Act and Section 504. Comments requesting guidance on the meaning of the term “resurfacing” should be directed to the Department of Justice and Department of Transportation when they conduct rulemaking to include accessibility standards for pedestrian facilities in the public right-of-way in regulations implementing Title II of the Americans with Disabilities Act and Section 504.

Where elements are altered or added to existing facilities but the pedestrian circulation path to the altered or added elements is not altered, the pedestrian circulation path is not required to comply with the proposed requirements for pedestrian access routes. For example, if a new bench is installed on an existing sidewalk that has a cross slope exceeding 2 percent, the sidewalk is not required to be altered to reduce the cross slope because the bench is installed on the sidewalk. Advisory information recommends that, where possible, added elements should be located on an existing pedestrian access route. This provision is based on similar provisions in the 2004 ADA and ABA Accessibility Guidelines which do not require the circulation path to altered elements or spaces to comply with the requirements for accessible routes where the circulation path to the altered elements or spaces is not altered (see 202.3, Exception 1; and F202.3, Exception 1).

Where existing physical constraints make it impractical for altered elements, spaces, or facilities to fully comply with new construction requirements, compliance is required to the extent practicable within the scope of the project. Existing physical constraints include, but are not limited to, underlying terrain, right-of-way availability, underground structures, adjacent developed facilities, drainage, or the presence of a notable natural or historic feature.

The 2004 ADA and ABA Accessibility Guidelines (see 202.4 and F202.4) and the Department of Justice regulations implementing Title II of the Americans with Disabilities Act (see 28 CFR 35.151 (b)) include an additional requirement for facilities on sites whereby an alteration that affects or could affect the usability of or access to an area containing a “primary function” must be made so as to ensure that, to the maximum extent feasible, the “path of travel” to the altered area is accessible, unless the additional cost and scope of the alterations to provide an accessible “path of travel” are disproportionate to the cost of the alteration to the “primary function” area. The Department of Justice regulations define the terms “primary function” and “path of travel.” See 28 CFR 35.151 (b) (4) (i) and (ii). According to the Department of Justice regulations, a “primary function” is a major activity for which the facility is intended. “Primary function” areas include the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, and corridors are not “primary function” areas. Restrooms are not “primary function” areas unless the provision of restrooms is a primary purpose of the area (e.g., restrooms in highway rest stops). Alterations to windows, hardware, controls, electrical outlets, and signage are not alterations that affect the usability of or access to a “primary function” area.

The Department of Justice regulations further state that a “path of travel” includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility. An accessible “path of travel” may consist of walks and sidewalks; curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements; and also includes the restrooms, telephones, and drinking fountains serving the altered area.

The Department of Justice regulations deem the additional cost of alterations to provide an accessible “path of travel” to the altered area disproportionate when it exceeds 20 percent of the cost of the alteration to the “primary function” area. See 28 CFR 35.151 (b) (4) (iii). When the additional cost of alterations to provide an accessible “path of travel” to the altered area is disproportionate, the Department of Justice regulations require the “path of travel” to be made accessible to the extent that it can be made accessible without incurring disproportionate costs (i.e., an amount equal to 20 percent of the cost of the alteration to the “primary function” area must be expended to provide an accessible “path of travel” to the altered area). See 28 CFR 35.151 (b) (4) (iv). A similar requirement is not included in the proposed guidelines because of the uncertainty how the terms “primary function” and “path of travel” as defined in the Department of Justice regulations for facilities on sites would apply to pedestrian facilities in the public right-of-way. Revising the definitions of “primary function” and “path of travel” to apply to pedestrian facilities in the public right-of-way will not necessarily result in additional accessibility. For example, if an area that contains a “primary function” is defined to include sidewalks, an accessible “path of travel” would be required to the altered sidewalks, which in effect would require the cost and scope of planned sidewalk alteration projects to be increased by 20 percent. Sidewalk alteration projects can be planned to take into account the additional 20 percent scope and cost of work. For example, if a 5 block sidewalk alteration project would be planned in the absence of a requirement for an accessible “path of travel” to the altered sidewalks, imposing a requirement for an accessible “path of travel” to the altered sidewalks could result in a 4 block sidewalk alteration project being planned and the additional 20 percent scope and cost of work would result in a 5 block sidewalk alteration project.

Transitional segments of pedestrian access routes must connect to unaltered segments of existing pedestrian circulation paths and comply with the technical requirements for pedestrian access routes to the extent practicable. Alterations must not decrease or have the effect of decreasing the accessibility of a facility or an accessible connection to an adjacent building or site below the requirements for new construction in effect at the time of the alteration.

Where the State Historic Preservation Officer or Advisory Council on Historic Preservation determines that compliance with a requirement would threaten or destroy historically significant features of a qualified historic facility, compliance is required to the extent that it does not threaten or destroy historically significant features of the facility. A qualified historic facility is a facility that is listed in or is eligible for listing in the National Register of Historic Places, or is designated as historic under state or local law (see R105.5)

R203 Machinery Spaces

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Vaults, tunnels, and other spaces used by service personnel only are not required to comply with the proposed guidelines.

R204 Pedestrian Access Routes

A pedestrian access route is a continuous and unobstructed path of travel provided for pedestrians with disabilities within or coinciding with a pedestrian circulation path in the public right-of-way (see R105.5). Pedestrian access routes in the public right-of-way ensure that the transportation network used by pedestrians is accessible to pedestrians with disabilities. Pedestrian access routes in the public right-of-way are analogous to accessible routes on sites in that they connect to accessible elements, spaces, and facilities in the public right-of-way, including accessible pedestrian signals and pedestrian pushbuttons, accessible street furniture, accessible transit stops and transit shelters, accessible on-street parking spaces and parking meters and parking pay stations serving those parking spaces, and accessible passenger loading zones. Pedestrian access routes in the public right-of-way also connect to accessible routes at building and facility site arrival points.²⁷

Pedestrian access routes must be provided within:

- Sidewalks and other pedestrian circulation paths located in the public right-of-way;
- Pedestrian street crossings and at-grade rail crossings, including medians and pedestrian refuge islands; and
- Overpasses, underpasses, bridges, and similar structures that contain pedestrian circulation paths.

Where an overpass, underpass, bridge, or similar structure is designed for pedestrian use only and the approach slope to the structure exceeds 5 percent, a ramp, elevator, limited use/limited application elevator, or platform lift must be provided. Elevators and platform lifts must be unlocked during the operating hours of the facility served.

An advisory section notes that the Federal Highway Administration has issued guidance on the obligations of state and local governments to keep pedestrian access routes open and usable throughout the year, including snow and debris removal.

R205 Alternate Pedestrian Access Routes

Alternate pedestrian access routes must be provided when a pedestrian circulation path is temporarily closed by construction, alterations, maintenance operations, or other conditions. The alternate pedestrian access route must comply with the referenced MUTCD standards. The MUTCD standards require alternate pedestrian routes to be accessible and detectable, including warning pedestrians who are blind or have low vision about sidewalk closures. Proximity-actuated audible signs are a preferred means to warn pedestrians who are blind or have low vision about sidewalk closures.

R206 Pedestrian Street Crossings

27. The ADA and ABA Accessibility Guidelines require accessible routes on sites to connect to site arrival points, including public streets and sidewalks (see 206.2.1 and F206.2.1).

Pedestrian street crossings must comply with technical requirements in Chapter R3 that reference MUTCD standards for pedestrian signal phase timing. The technical requirements in Chapter R3 also include requirements for roundabouts and multi-lane channelized turn lanes.

R207 Curb Ramps and Blended Transitions

Curb ramps, blended transitions, or a combination of curb ramps and blended transitions must connect the pedestrian access routes at each pedestrian street crossing. Curb ramps and blended transitions must be wholly contained within the pedestrian street crossings served. Typically, two curb ramps must be provided at each street corner. In alterations where existing physical constraints prevent two curb ramps from being installed at a street corner, a single diagonal curb ramp is permitted at the corner.

R208 Detectable Warning Surfaces

Detectable warning surfaces consist of small truncated domes built in or applied to a walking surface that are detectable underfoot. On pedestrian access routes, detectable warning surfaces indicate the boundary between a pedestrian route and a vehicular route where there is a flush rather than a curbed connection for pedestrians who are blind or have low vision. Detectable warning surfaces are not intended to provide wayfinding for pedestrians who are blind or have low vision. An advisory section provides information on streetscape designs that can make wayfinding easier. Detectable warning surfaces must be provided at the following locations on pedestrian access routes and at transit stops:

- Curb ramps and blended transitions at pedestrian street crossings;
- Pedestrian refuge islands;
- Pedestrian at-grade rail crossings not located within a street or highway;
- Boarding platforms at transit stops for buses and rail vehicles where the edges of the boarding platform are not protected by screens or guards; and
- Boarding and alighting areas at sidewalk or street level transit stops for rail vehicles where the side of the boarding and alighting areas facing the rail vehicles is not protected by screens or guards.

Detectable warning surfaces are not required at pedestrian refuge islands that are cut-through at street level and are less than 1.8 meters (6 feet) in length in the direction of pedestrian travel because detectable warning surfaces must extend 610 millimeters (2 feet) minimum on each side of the island and be separated by a 610 millimeters (2 feet) minimum length of island without detectable warning surfaces (see R305.1.4 and R305.2.4). Installing detectable warning surfaces at cut-through pedestrian islands that are less than 1.8 meters (6 feet) in length would compromise the effectiveness of detectable warning surfaces. An advisory section recommends that where a cut-through pedestrian island is less than 1.8 meters (6 feet) in length and the pedestrian street crossing is signalized, the signal should be timed for a complete crossing of the street.

Comments from Individuals Who Are Blind or Have Low Vision

The National Federation of the Blind was a member of the advisory committee that recommended the proposed guidelines, but filed a minority report recommending detectable warning surfaces should be required only on curb ramps with slopes of 6.6 percent or less, and at medians and pedestrian refuge

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islands. Comments on the 2002 draft guidelines from individuals who identified themselves as blind or having low vision supported requiring detectable warning surfaces on all curb ramps by a margin of 2:1.

Detectable Warning Surfaces on Curb Ramps

When the Access Board issued the 1991 ADAAG, the guidelines contained a requirement for detectable warning surfaces on curb ramps. The requirement was temporarily suspended between 1994 and 2001 pending additional research and review of issues relating to requirement. The Access Board deferred addressing detectable warning surfaces on curb ramps in the 2004 ADA and ABA Accessibility Guidelines pending completion of the guidelines for pedestrian facilities in the public right-of-way. As a result of these actions, there are different requirements for detectable warning surfaces on curb ramps in the accessibility standards included the regulations issued by the Department of Justice implementing Title II of the Americans with Disabilities Act and by the Department of Transportation implementing Section 504.

When the Department of Justice initially issued regulations in 1991 implementing Title II of the Americans with Disabilities Act, the regulations required state and local governments to use accessibility standards (hereinafter referred to as the "DOJ 1991 Standards") that included the 1991 ADAAG which contained a requirement for detectable warning surfaces on curb ramps, or the Uniform Federal Accessibility Standards (UFAS) which did not contain a requirement for detectable warning surfaces on curb ramps.²⁸ When the Department of Justice adopted the DOJ 2010 Standards, those standards included the 2004 ADA and ABA Accessibility Guidelines which do not contain a requirement for detectable warning surfaces on curb ramps.

The Department of Transportation regulations implementing Section 504 require state and local governments that receive federal financial assistance directly or indirectly from the Department to use accessibility standards that include the 2004 ADA and ABA Accessibility Guidelines, as modified by the Department, or UFAS. See 49 CFR 27.3 (b). The Department of Transportation modified the 2004 ADA and ABA Accessibility Guidelines by retaining certain requirements from the 1991 ADAAG, including the requirement for detectable warning surfaces on curb ramps. See 406.8 in Appendix A to 49 CFR part 37.

State and local transportation departments will be affected differently by the requirement in the proposed guidelines for detectable warning surfaces on curb ramps depending on the accessibility standards that they use for curb ramps in the public right-of-way. The Access Board reviewed the standard drawings for the design of curb ramps on state transportation department websites and found that the transportation departments in all 50 states and the District of Columbia specify detectable warning surfaces on curb ramps in the standard drawings.²⁹ Most local transportation departments use standard drawings for the design of curb ramps that are consistent with the standard drawings maintained by their

28. UFAS was issued in 1984 by the General Services Administration and other federal agencies responsible for issuing accessibility standards for facilities covered by the Architectural Barriers Act. See 49 FR 31528 (August 7, 1984).

29. Links to each state transportation department's standard drawings that specify detectable warning surfaces on curb ramps are available on the Access Board website at: <http://www.access-board.gov/prowac/index.htm>.

state transportation departments. These state and local transportation departments use either the DOJ 1991 Standards, which include the 1991 ADAAG requirement for detectable warning surfaces on curb ramps, or the Department of Transportation accessibility standards, which include the 2004 ADA and ABA Accessibility Guidelines as modified by the Department to include the requirement from the 1991 ADAAG for detectable warning surfaces on curb ramps.³⁰

Governmental Units Affected

State and local transportation departments are divided into four groups for the purpose of evaluating the impacts of the requirement in the proposed guidelines for detectable warning surfaces on curb ramps:

- Group 1 consists of state and local transportation departments that use UFAS for curb ramps as currently permitted by the Department of Justice and Department of Transportation regulations implementing Title II of the Americans with Disabilities Act and Section 504. UFAS did not contain a requirement for detectable warning surfaces on curb ramps. The Access Board is not aware of any state or local transportation departments that use UFAS. The Department of Justice regulations do not permit the use of UFAS on or after March 15, 2012. See 28 CFR 35.151 (c) (3). Thus, Group 1 will cease to exist as of March 15, 2012, and any state and local transportation departments currently in Group 1 will fall into one of the other groups.

Question 4. The Access Board seeks information on whether any state and local transportation departments currently use UFAS for curb ramps in the public right-of-way.

- Group 2 consists of state and local transportation departments that receive federal financial assistance directly or indirectly from the Department of Transportation. State and local transportation departments in Group 2 are required to comply with the accessibility standards in the Department of Justice regulations implementing Title II of the Americans with Disabilities Act and the Department of Transportation regulations implementing Section 504. Where the requirements in the accessibility standards in the Department of Justice and Department of Transportation regulations differ, the more stringent requirement must be used. Excluding any state and local transportation departments in Group 1, state and local transportation departments in Group 2 must comply with the requirement for detectable warning surfaces on curb ramps in the Department of Transportation regulations because it is the more stringent requirement. All state transportation departments and most local transportation departments are in Group 2 and specify detectable warning surfaces on curb ramps in their standard drawings. The requirement in the proposed guidelines for detectable warning

30. The DOJ 1991 Standards require detectable warning surfaces to extend the full width and depth of the curb ramp (see 4.7.7, Appendix E to 28 CFR part 36). The Department of Transportation standards require detectable warning surfaces to extend the full width of the curb ramp (exclusive of flared sides) and either the full depth of the curb ramp or 24 inches deep minimum measured from the back of the curb on the ramp surface (see 406.8, Appendix A to 49 CFR part 37). Guidance issued by the Department of Justice permits the use of the Department of Transportation standards for detectable warning surfaces on curb ramps. See Department of Justice, "ADA Best Practices Tool Kit for State and Local Governments, Curb Ramps and Pedestrian Crossings" (May 7, 2006) at: <http://www.ada.gov/pcatoolkit/toolkitmain.htm>.

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surfaces on curb ramps will not have any impacts on state and local transportation departments in Group 2.

- Group 3 consists of local transportation departments that do not receive federal financial assistance directly or indirectly from the Department of Transportation. Local transportation departments in Group 3 are required to comply only with the accessibility standards in the Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Excluding any local transportation departments in Group 1, local transportation departments in Group 3:
 - a) Used the DOJ 1991 Standards, which include the 1991 ADAAG and contain a requirement for detectable warning surfaces on curb ramps, before September 15, 2010. See 28 CFR 35.151 (c) (1).
 - b) Are permitted to use the DOJ 1991 Standards, which include the 1991 ADAAG and contain a requirement for detectable warning surfaces on curb ramps, or the DOJ 2010 Standards, which include the 2004 ADA and ABA Accessibility Guidelines and do not contain a requirement for detectable warnings on curb ramps, between September 15, 2010 and March 14, 2012. See 28 CFR 35.151 (c) (2).
 - c) Must use the DOJ 2010 Standards, which include the 2004 ADA and ABA Accessibility Guidelines and do not contain a requirement for detectable warnings on curb ramps, on or after March 15, 2012. See 28 CFR 35.151 (c) (3).

Thus, local transportation departments in Group 3 were required to provide detectable warning surfaces on curb ramps before September 15, 2010; may or may not be required to provide detectable warning surfaces on curb ramps between September 15, 2010 and March 14, 2012 depending on the accessibility standard they use (DOJ 1991 Standards or DOJ 2010 Standards); and are not required to provide detectable warning surfaces on curb ramps on or after March 15, 2012 pending the future adoption of accessibility standards for pedestrian facilities in the public right-of-way by the Department of Justice.

Question 5. The Access Board seeks information on whether local transportation departments in Group 3 will continue or discontinue providing detectable warning surfaces on curb ramps in the public right-of-way pending the future adoption of accessibility standards for pedestrian facilities in the public right-of-way by the Department of Justice.

- Group 4 consists of state and local transportation departments that do not comply with accessibility standards for curb ramps in the public right-of-way. The Department of Justice and Federal Highway Administration have provided guidance on accessibility standards that apply to curb ramps in the public right-of-way, including the requirement for detectable warning surfaces.³¹ Despite the guidance provided by the Department of Justice and the Federal Highway Administration on the accessibility standards that apply to curb ramps in the public right-of-way, there may be state and local transportation departments that do not comply with the standards.

31. See Department of Justice, “ADA Best Practices Tool Kit for State and Local Governments, Curb Ramps and Pedestrian Crossings” (May 7, 2006) at: <http://www.ada.gov/pccatoolkit/toolkitmain.htm>; and Federal Highway Administration, “Information on Detectable Warnings” (May 6, 2002) at: <http://www.fhwa.dot.gov/environment/bikeped/dwm.htm> .

Question 6. Comments are requested on whether the future adoption of accessibility standards for pedestrian facilities in the public right of way by the Department of Justice and Department of Transportation in regulations implementing Title II of the Americans with Disabilities Act and Section 504 will have a positive or negative effect, or no effect on the compliance rates of state and local transportation departments, particularly with respect to providing detectable warning surfaces on curb ramps.

Question 7. The Access Board seeks information on the number of curb ramps that are constructed or altered on an annual basis in the public right-of-way by state and local transportation departments.

Costs to Provide Detectable Warning Surfaces on Curb Ramps

Detectable warning surfaces are available in a variety of materials. The Volpe Center gathered data from local transportation departments and vendors on various detectable warning materials and estimated the costs of 8 square feet of the materials for a typical curb ramp as shown in the table below. The estimates do not include installation costs.

| Detectable Warning Surfaces | Materials Costs for Typical Curb Ramp |
|---------------------------------------|---------------------------------------|
| Concrete pavers | \$48 to \$80 |
| Brick pavers | \$128 |
| Polymer and composite materials | \$120 to \$200 |
| Stainless steel or cast iron products | \$240 |

Question 8. The Access Board seeks additional information on the costs for detectable warning materials (8 square feet) and installation of the materials on a typical curb ramp.

Detectable Warning Surfaces on Boarding Platforms Used by Buses and Rail Vehicles, and Boarding and Alighting Areas Used by Rail Vehicles

The 1991 ADAAG and 2004 ADA and ABA Accessibility Guidelines contain a requirement for detectable warning surfaces on rail platforms.³² The proposed guidelines adapt this requirement to transit stops in the public right-of-way, and require detectable warning surfaces on boarding platforms at transit stops for buses and rail vehicles (i.e., raised platforms used for level boarding by bus rapid transit systems and light rail systems) and at boarding and alighting areas at sidewalk or street level transit stops for rail vehicles. Detectable warning surfaces are not required where the edges of the boarding platform or the boarding and alighting areas facing the rail vehicles are protected by screens or guards.

Durability and Maintenance of Detectable Warning Surfaces

Transportation officials who commented on the 2002 draft guidelines expressed concern about the durability and maintenance of detectable warning surfaces. The National Cooperative Highway

³². See 1991 ADAAG, 10.3.1 (8); and 2004 ADA and ABA Accessibility Guidelines, 810.5.2.

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Research Program (NCHRP) has conducted two studies on the durability and maintenance of detectable warning surfaces. The first study was completed in 2005 and reviewed performance information submitted by state and local transportation departments.³³ The performance information was limited in terms of the products reviewed and time period of review (about 2 years). The study noted that there were new promising detectable warning products on the market, and recommended that test methods be developed for evaluating the long-term performance and durability of the products. The second study was completed in 2010 and recommended procedures for testing and evaluating detectable warning products.³⁴ The test methods can be used by state and local transportation departments to select detectable warning products that will provide long-term performance and durability under different environmental conditions. Many state and local transportation departments have evaluated and approved detectable warning products that are suited to their environments.

R209 Accessible Pedestrian Signals and Pedestrian Pushbuttons

An accessible pedestrian signal and pedestrian pushbutton is an integrated device that communicates information about the WALK and DON'T WALK intervals at signalized intersections in non-visual formats (i.e., audible tones and vibrotactile surfaces) to pedestrians who are blind or have low vision. The pedestrian pushbutton has a locator tone for detecting the device and a tactile arrow to indicate which pedestrian street crossing is served by the device. The MUTCD contains standards for accessible pedestrian signals and pedestrian pushbuttons, but does not require that they be provided. The proposed guidelines require accessible pedestrian signals and pedestrian pushbuttons to be provided when new pedestrian signals are installed. For existing pedestrian signals, the proposed guidelines require accessible pedestrian signals and pedestrian pushbuttons to be provided when the signal controller and software are altered, or the signal head is replaced. Accessible pedestrian signals and pedestrian pushbuttons must comply with the referenced standards in the MUTCD and the technical requirements for operable parts in Chapter R4. Technical assistance and training on the installation of accessible pedestrian signals and pedestrian pushbuttons is available from the Access Board and transportation industry professional associations.³⁵

Comments from Individuals Who Are Blind or Have Low Vision

The National Federation of the Blind was a member of the advisory committee that recommended the proposed guidelines, but filed a minority report recommending that state and local governments consult with the local blind community to determine whether to provide accessible pedestrian signals and

33. "Synthesis of Maintenance and Durability Information for Detectable Warnings on Sidewalks" March 2005 at: <http://maintenance.transportation.org/Documents/DetectableWarning20-7%28177%29.pdf>.

34. "Procedures for Testing and Evaluating Detectable Warning Systems" March 2010 at: http://online-pubs.trb.org/onlinepubs/nchrp/nchrp_rpt_670.pdf.

35. Technical assistance and training on the installation of accessible pedestrian signals are available on the following websites:

Access Board at: <http://www.access-board.gov/research/pedestrian-signals/bulletin.htm>;

Accessible Design for the Blind: http://www.accessforblind.org/aps_abt.html;

Institute of Transportation Engineers at: <http://www.ite.org/education/olg.asp>;

National Highway Cooperative Research Program at: <http://www.apsguide.org/>; and

Transportation Research Board at: <http://www.trb.org/Main/Public/Blurbs/159938.aspx>.

pushbuttons on an intersection-by-intersection basis. Comments on the 2002 draft guidelines from individuals who identified themselves as blind or having low vision supported providing accessible pedestrian signals and pushbuttons at each signalized intersection where pedestrian signals are newly installed or replaced by a margin of 2:1.

Governmental Units Affected

The Transportation Equity Act for the 21st Century (TEA-21) directed that audible traffic signals be included in transportation plans and projects where appropriate. See 23 U.S.C. 217 (g). Some state and local transportation departments currently provide accessible pedestrian signals and pedestrian pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections. The requirement in the proposed guidelines for accessible pedestrian signals and pedestrian pushbuttons will have impacts on state and local transportation departments that do not currently provide accessible pedestrian signals and pedestrian pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections.

Question 9. The Access Board seeks information on how many state and local transportation departments currently provide accessible pedestrian signals and pedestrian pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections.

Costs to Provide Accessible Pedestrian Signals and Pedestrian Pushbuttons

The Volpe Center estimated the additional cost for an accessible pedestrian pushbutton compared to conventional pushbutton is \$350 per unit. For a typical intersection with four crosswalks, two accessible pedestrian pushbuttons would be required at each corner for a total of eight units per intersection and a total additional cost of \$2,800 for the eight units. The cost of the units is expected to decrease as a result of the proposed guidelines due to greater standardization of customer requirements and increased orders. The total additional cost to provide accessible pedestrian signals and pedestrian pushbuttons, including labor and other equipment such as stub poles and conduit, will vary by location. The Volpe Center estimated that the total additional costs are \$3,600 per intersection based on a published cost study and interviews with local transportation departments.

Question 10. The Access Board seeks information from state and local transportation departments that currently provide accessible pedestrian signals and pedestrian pushbuttons on the additional costs to provide the accessible pedestrian signals and pedestrian pushbuttons.

The Volpe Center estimated that pedestrian signals are newly installed or replaced at 13,095 signalized intersections on an annual basis based on the following assumptions:

- There are over 300,000 existing signalized intersections in the United States using a rule-of-thumb of one signalized intersection per 1,000 population.³⁶
- There are 2,550 new signalized intersections in the United States each year based on the US Census Bureau forecast of future population growth (0.85 percent).

36. See MUTCD "Frequently Asked Questions – Part 4 – Highway Traffic Signals" at: http://mutcd.fhwa.dot.gov/knowledge/faqs/faq_part4.htm.

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- Ninety (90) percent of new and existing signalized intersections in the United States provide pedestrian signals.
- The life cycle or replacement rate for existing pedestrian signals is 25 years.

The Volpe Center estimated that the total annual costs are \$47 million for requiring accessible pedestrian signals and pedestrian pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections.

Question 11. Comments are requested on the assumptions used to estimate the total annual costs for requiring accessible pedestrian signals and pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections.

R210 Protruding Objects

Objects that protrude into pedestrian circulation paths can be hazardous for pedestrians, especially pedestrians who are blind or have low vision. Objects along or overhanging any portion of a pedestrian circulation path must comply with the technical requirements for protruding objects in Chapter R4. Objects also must not reduce the clear width required for pedestrian access routes. An advisory section provides examples of street furniture and other objects that must comply with these requirements, and notes that the AASHTO “Guide for the Planning, Design, and Operation of Pedestrian Facilities” recommends that local governments regulate the use of sidewalks by private entities for activities such as outdoor dining, vending carts and stands, and street fairs under an encroachment permit process that addresses accessibility, including protruding objects and maintaining the clear width of pedestrian access routes.

R211 Signs

Signs that provide directions, warnings, or other information for pedestrians only and signs that identify routes served by transit stops must comply with the technical requirements for visual characters in Chapter R4. An advisory section provides examples of signs that are required and are not required to comply with the technical requirements for visual characters in Chapter R4. Signs displaying the International Symbol of Accessibility must be provided at accessible parking spaces and accessible passenger loading zones.

The 2004 ADA and ABA Accessibility Guidelines contain similar requirements for transit signs (see 810.4 and 810.6). In the 2004 ADA and ABA Accessibility Guidelines, characters on bus route signs must comply with the technical requirements for character height “to the maximum extent practicable.”³⁷ The phrase “to the maximum extent practicable” was intended to provide flexibility where there are restrictions on the size of signs. A similar provision is not included in the proposed guidelines because it is almost always practicable to comply with the technical requirements for character height.

37.The 2004 ADA and ABA Accessibility Guidelines also do not require bus route signs to comply with the technical requirements for minimum height above the ground and line spacing (see 703.5.6, 703.5.9, and 810.4).

Audible sign systems and other technologies are widely used today to transmit information and are more usable by pedestrians who are blind or have low vision.³⁸ Where audible sign systems and other technologies are used to transmit information equivalent to the information contained on signs, the signs are not required to comply with the technical requirements for visual characters in Chapter R4.

Question 12. The Access Board seeks information on technologies that are currently used or are under development to transmit information that is equivalent to the information contained on pedestrian signs and transit signs provided in the public right-of-way.

R212 Street Furniture

Drinking fountains, public toilet facilities, tables, and counters must comply with applicable requirements in the 2004 ADA and ABA Accessibility Guidelines. Where multiple single-user public toilet facilities are clustered at a single location, at least 5 percent, but no less than one, of the toilet facilities in each cluster must be accessible and identified by the International Symbol of Accessibility. At least 50 percent, but no less than one, of benches at each location must provide a clear space for a wheelchair adjacent to the bench. Benches at tables are not required to comply.

R213 Transit Stops and Transit Shelters

Transit stops and transit shelters must comply with the technical requirements for transit stops and transit shelters in Chapter R3. Transit stops in the public right-of-way typically serve fixed route bus systems, including bus rapid transit systems, and light rail transit systems. An advisory section notes that the Federal Highway Administration has issued guidance on the obligation of state and local transportation departments, metropolitan planning organizations, and transit agencies to coordinate the planning and funding of accessibility improvements to transit systems and facilities.

R214 On-Street Parking Spaces

Where on-street parking is provided on the block perimeter and the parking is marked or metered, a minimum number of parking spaces must be accessible and comply with the technical requirements for parking spaces in Chapter R3. For every 25 parking spaces on the block perimeter up to 100 spaces, one parking space must be accessible. For every additional 50 parking spaces on the block perimeter between 101 and 200 spaces, an additional parking space must be accessible. Where more than 200 parking spaces are provided on the block perimeter, 4 percent of the parking spaces must be accessible. Metered parking includes parking metered by parking pay stations. Where parking is metered by parking pay stations and the parking is not marked, each 6.1 meters (20 feet) of the block perimeter where parking is permitted is counted as one parking space for determining the minimum number of accessible parking spaces.

R215 Passenger Loading Zones

38.The ANSI approved standard "ICC A117.1-2009: Accessible and Usable Buildings and Facilities" includes technical requirements for remote infrared audible sign systems (see 703.8).

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Where passenger loading zones are provided, at least one passenger loading zone for each 30 meters (100 feet) of continuous loading zone space or fraction thereof must be accessible and comply with the technical requirements for passenger loading zones in Chapter R3.

R216 Stairways and Escalators

Stairways on pedestrian circulation paths must comply with technical requirements for stairways in Chapter R4. Escalators on pedestrian circulation paths must comply with the applicable technical requirements in the 2004 ADA and ABA Accessibility Guidelines. Stairways and escalators cannot be part of a pedestrian access route.

R217 Handrails

Handrails are not required on pedestrian circulation paths. However, if handrails are provided on pedestrian circulation paths, the handrails must comply with the technical requirements for handrails in Chapter R4.

R218 Doors, Doorways, and Gates

Doors, doorways, and gates to pedestrian facilities such as transit shelters must comply with applicable technical requirements in the 2004 ADA and ABA Accessibility Guidelines.

Chapter R3: Technical Requirements

Technical requirements specify what design criteria elements, spaces, and facilities must comply with in order to be considered accessible.

R301 General

The technical requirements in Chapter R3 apply where required by the scoping requirements in Chapter R2, or where referenced by another technical requirement in Chapters R3 or R4.

R302 Pedestrian Access Routes

General (R302.1)

The technical requirements for pedestrian access routes are contained in R302, and adapt the technical requirements for accessible routes in the 2004 ADA and ABA Accessibility Guidelines to the public right-of-way. In alterations where existing physical constraints make it impractical to fully comply with the technical requirements, compliance is required to the extent practicable within the scope of the project (see R202.3.1).

Components (R302.2)

The components of pedestrian access routes and the technical requirements for each component are listed in R302.2. Sidewalks and other pedestrian circulation paths, pedestrian street crossings, and pedestrian overpasses and underpasses and similar structures must comply with all the technical

requirements in R302.3 through R302.7. Curb ramps and blended transitions must comply with the technical requirements in R302.7 and R304. Ramps must comply with the technical requirements in R407. Elevators, limited use/limited application elevators, platform lifts, and doors, doorways, and gates must comply with applicable technical requirements in the 2004 ADA and ABA Accessibility Guidelines.

Continuous Width (R302.3)

The continuous clear width of pedestrian access routes (exclusive of the width of the curb) must be 1.2 meters (4 feet) minimum, except for medians and pedestrian refuge islands where the clear width must be 1.5 meters (5 feet) minimum in order to allow for passing space. The AASHTO "Guide for the Planning, Design, and Operation of Pedestrian Facilities" recommends that sidewalks be wider than 1.2 meters (4 feet), particularly in urban areas. Where sidewalks are wider than 1.2 meters (4 feet), only a portion of the sidewalk is required to comply with the technical requirements in R302.3 through R302.7.

The advisory committee recommended a minimum width of 1.5 meters (5 feet) for pedestrian access routes. The proposed guidelines specify a minimum width of 1.2 meters (4 feet) in order to allow for street furniture and other objects that may be located on sidewalks. R210 prohibits street furniture and other objects from reducing the clear width required for pedestrian access routes. A minimum width of 1.2 meters (4 feet) will accommodate turns at intersections and building entrances. Advisory information recommends additional maneuvering clearance at turns or changes in direction, recesses and alcoves, building entrances, and along curved or angled routes, particularly where the grade exceeds 5 percent.

Passing Spaces (R302.4)

Where the clear width of pedestrian access routes is less than 1.5 meters (5 feet), passing spaces must be provided at intervals of 61 meters (200 feet) maximum. Passing spaces must be 1.5 meters (5 feet) minimum by 1.5 meters (5 feet) minimum. Passing spaces are permitted to overlap pedestrian access routes.

Grade (R302.5)

Grade is the slope parallel to the direction of pedestrian travel. Grade is calculated by dividing the vertical change in elevation by the horizontal distance covered, and is expressed as a percent. Where pedestrian access routes are contained within a street or highway right-of-way, the grade of the pedestrian access route is permitted to equal the general grade established for the adjacent street or highway, except that where pedestrian access routes are contained within pedestrian street crossings a maximum grade of 5 percent is required. This is consistent with the AASHTO "Policy on Geometric Design of Highways and Streets" which recommends that the sidewalk grade follow the grade of adjacent roadways, and also recommends maximum cross slopes for roadways. Where pedestrian access routes are not contained within a street or highway right-of-way, a maximum grade of 5 percent is required.

Cross Slope (R302.6)

Cross slope is the slope perpendicular to the direction of pedestrian travel (see R105.5). On a sidewalk, cross slope is measured perpendicular to the curb line or edge of the street or highway. Cross slope

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impedes travel by pedestrians who use wheeled mobility devices since energy must be expended to counteract the perpendicular force of the cross slope. Cross slope makes it more difficult for pedestrians who use wheelchairs to travel on uphill slopes and to maintain balance and control on downhill slopes. Cross slope also negatively affects pedestrians who use braces, lower limb prostheses, crutches, or walkers, as well as pedestrians who have gait, balance, or stamina impairments. The maximum cross slope permitted on accessible routes in the 2004 ADA and ABA Accessibility Guidelines is 2 percent. In exterior environments, a maximum cross slope of 2 percent is generally accepted as adequate to allow water to drain off paved walking surfaces.

A maximum cross slope of 2 percent is specified for pedestrian access routes, except for pedestrian access routes contained within certain pedestrian street crossings in order to allow for typical roadway geometry. A 5 percent maximum cross slope is specified for pedestrian access routes contained within pedestrian street crossings without yield or stop control to avoid any unintended negative impacts on the control and safety of vehicles, their occupants, and pedestrians in the vicinity of the intersection. Pedestrian street crossings without yield or stop control are crossings where there is no yield or stop sign, or where there is a traffic signal that is designed for the green phase. At pedestrian street crossings without yield or stop control vehicles can proceed through the intersection without slowing or stopping. The cross slope of pedestrian access routes contained within midblock pedestrian street crossings is permitted to equal the street or highway grade.

Question 13. Comments are requested on whether the description of pedestrian street crossings without yield or stop control is clear, or whether there is a better way to describe such crossings?

In new construction, where pedestrian access routes within sidewalks intersect at corners, the 2 percent maximum cross slope requirement will result in level corners (i.e., the slope at the corners will not exceed 2 percent in each direction of pedestrian travel). The level corners will provide a platform for providing level spaces for curb ramps and blended transitions, pedestrian street crossings, and accessible pedestrian signals and pedestrian pushbuttons.

Newly Constructed Tabled Intersections That Contain Pedestrian Street Crossings With Yield or Stop Control

The 2 percent maximum cross slope requirement applies to pedestrian access routes within pedestrian street crossings with yield or stop control where vehicles slow or stop before proceeding through the intersection. The cross slope of the pedestrian access route within the pedestrian street crossing is the longitudinal grade of the street being crossed, and the 2 percent maximum cross slope requirement will impact the vertical alignment of streets in the vicinity of the intersection. In new construction, street intersections in hilly urban areas are typically cut-and-filled to produce relative flat or tabled intersections. Where pedestrian street crossings with yield or stop control are provided at newly constructed tabled intersections, the tabling would be extended to the pedestrian street crossings to comply with the 2 percent maximum cross slope for pedestrian access routes within the pedestrian street crossings.

Question 14. The Access Board seeks information on the current design policies and practices of state and local transportation departments with respect to tabling newly constructed intersections in hilly urban areas, and particularly whether the tabling is extended to pedestrian street crossings with yield or stop control.

In new construction, extending the tabling of intersections to pedestrian street crossings with yield or stop control involves additional costs for site preparation, grading, and earthwork. The Volpe Center roughly estimated the additional costs to extend the tabling to pedestrian street crossings with yield or stop control to be \$60,000 per intersection based on information provided by a transportation official to the Access Board. The costs will vary by site.

Question 15. The Access Board seeks information on the additional costs to extend the tabling of newly constructed intersections in hilly urban areas to pedestrian street crossings with yield or stop control.

Question 16. The Access Board seeks information on number of tabled intersections which contain pedestrian street crossings with yield or stop control that are newly constructed in hilly urban areas on an annual basis by state and local transportation departments.

Surfaces (R302.7)

The proposed technical requirements for surfaces apply to pedestrian access routes, including curb ramps and blended transitions, and accessible elements and spaces that connect to pedestrian access routes. An advisory section lists the accessible elements and spaces that connect to pedestrian access routes and are required to comply with the technical requirements for surfaces.

The surfaces of pedestrian access routes and the surfaces at accessible elements and spaces that connect to pedestrian access routes must be firm, stable, and slip resistant. Vertical alignment of surfaces within pedestrian access routes (including curb ramp runs, blended transitions, turning spaces, and gutter areas within pedestrian access routes) and within the surfaces at accessible elements and spaces that connect to pedestrian access routes must be generally planar. Grade breaks (i.e., the line where two surface planes with different grades meet, see R105.5) must be flush. Where pedestrian access routes cross rails at grade, the pedestrian access route must be level and flush with the top of the rail at the outer edges of the rails, and the surfaces between the rails must be aligned with the top of the rail.

Vertical surface discontinuities (i.e., vertical difference in level between two adjacent surfaces, see R105.5) must be 13 millimeters (0.5 inch) maximum. Vertical surface discontinuities between 6.4 millimeters (0.25 inch) and 13 millimeters (0.5 inch) must be beveled with a slope not steeper than 50 percent, and the bevel must be applied across the entire vertical surface discontinuity. Horizontal openings in gratings and joints must not permit the passage of a sphere more than 13 millimeters (0.5 inch) in diameter. Elongated openings in gratings must be placed so that the long dimension is perpendicular to the dominant direction of travel.

Flangeway gaps at pedestrian at-grade rail crossings must be 64 millimeters (2.5 inches) maximum on non-freight rail track, and 75 millimeters (3 inches) maximum on freight rail track. These are the typical gaps required to allow passage of train wheel flanges. The flangeway gaps are wider than the maximum gap allowed for horizontal openings in other surfaces. These wider flangeway gaps pose a potential safety hazard to pedestrians who use wheelchairs because the gap can entrap the wheelchair casters.³⁹ The Federal Railroad Administration is sponsoring research to develop materials or devices that will fill the flangeway gap under light loads of a wheelchair but will compress or retract when a train wheel

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flange passes over it.⁴⁰ The materials or devices will be tested under heavy and light train loads for safety, effectiveness, durability, and cost.

Question 17. The Access Board seeks information on materials and devices that fill the flangeway gap, and any related research and sources of expertise.

R303 Alternate Pedestrian Access Routes (See R205)

In the 2005 draft of the proposed guidelines, the technical requirements for alternate pedestrian access routes were contained in Chapter R3. The proposed guidelines reference MUTCD standards for alternate pedestrian access routes in the scoping requirements at R205. This section heading is included in Chapter R3 of the proposed guidelines to notify readers who were familiar with the 2005 draft of the proposed guidelines where to find the requirements for alternate pedestrian access routes. This section heading will not be included in the final guidelines.

R304 Curb Ramps and Blended Transitions**General (R304.1)**

Curb ramps are ramps that are cut through or built up to the curb (see R105.5). Curb ramps can be perpendicular or parallel, or a combination of parallel and perpendicular ramps. Blended transitions are raised pedestrian street crossings, depressed corners, or similar connections between the pedestrian access route at the level of the sidewalk and the level of the pedestrian street crossing that have a grade of 5 percent or less (see R105.5).

The technical requirements for curb ramps and blended transitions are contained in R304 and adapt the technical requirements for curb ramps in the 2004 ADA and ABA Accessibility Guidelines to the public right-of-way. In alterations where existing physical constraints make it impractical to fully comply with the technical requirements, compliance is required to the extent practicable within the scope of the project (see R202.3.1).

Perpendicular Curb Ramps (R304.2)

39. For additional information on the potential safety hazard of flangeway gaps, see "Wheelchair Safety at Rail Level Crossings, International Review Working Paper" (2003) at [http://www.transport.vic.gov.au/DOI/DOIElect.nsf/\\$UNIDS+for+Web+Display/43D9BDF138FFE9F9CA256D630011A607/\\$FILE/Rail_Crossing_Disability_Access-International_Review.pdf](http://www.transport.vic.gov.au/DOI/DOIElect.nsf/$UNIDS+for+Web+Display/43D9BDF138FFE9F9CA256D630011A607/$FILE/Rail_Crossing_Disability_Access-International_Review.pdf); and "Rail Crossing Disability Access Kit" (2003) available at: [http://www.transport.vic.gov.au/DOI/DOIElect.nsf/\\$UNIDS+for+Web+Display/E995EA3FEB44F07CCA256D630011AD71/\\$FILE/Rail_Crossing_Disability_Access-Toolkit.pdf](http://www.transport.vic.gov.au/DOI/DOIElect.nsf/$UNIDS+for+Web+Display/E995EA3FEB44F07CCA256D630011AD71/$FILE/Rail_Crossing_Disability_Access-Toolkit.pdf).

40. For announcement of award of research contact in 2010, see <http://www.volpe.dot.gov/sbir/ph1rec10.html> and <http://www.integran.com/news/IT%20USA%20DOT%20Flangeway%20Gap%20SBIR%20-%20100323.pdf>. The Transportation Research Board has also developed research need statements for reducing flangeway gaps at railroad crossings. See "Wheelchairs Crossing Flangeway Gaps at Railroad Crossings" (2007); and "Reducing Flangeway Gaps at Railroad Crossings to Better Accommodate Pedestrians" (2008). The research need statements are available at: <http://rns.trb.org/dproject.asp?n=13462> and <http://rns.trb.org/dproject.asp?n=17644>.

Perpendicular curb ramps have a running slope that cuts through or is built up to the curb at right angles or meets the gutter grade break at right angles where the curb is curved. On corners with a large curb radius, it will be necessary to indent the gutter grade break on one side of the curb ramp in order for the curb ramp to meet the gutter grade break at right angles.

A turning space must be provided at the top of perpendicular curb ramps. The turning space must be 1.2 meters (4 feet) minimum by 1.2 meters (4 feet) minimum, and is permitted to overlap other turning spaces and clear spaces. Where the turning space is constrained at the back of the sidewalk, the turning space must be 1.2 meters (4 feet) minimum by 1.5 meters (5 feet) minimum, with the 1.5 meters (5 feet) dimension provided in the direction of the ramp run.

A minimum running slope of 5 percent and a maximum running slope of 8.3 percent are specified for perpendicular curb ramps, and the ramp length is limited to 4.5 meters (15 feet). A maximum running slope of 2 percent is specified for the turning space at the top of the curb ramp. The running slope is measured parallel to the direction of pedestrian travel.

A maximum slope of 10 percent is specified for the flared sides of perpendicular curb ramps where a pedestrian circulation path crosses the curb ramp. The flared sides are part of the pedestrian circulation path, but are not part of the pedestrian access route. The slope of the flared sides is measured parallel to the curb line. The 10 percent maximum slope for the flared sides is the same as in the 2004 ADA and ABA Accessibility Guidelines (see 403.6). Transportation officials have reported that the 10 percent maximum slope for the flared sides can make it difficult to provide two perpendicular curb ramps at some street corners due to the width of the flared sides at the base of the curb ramp. The Access Board is considering increasing the maximum slope for the flared sides to 12.5 percent or 16.7 percent to address this issue.

Question 18. Comments are requested on whether the maximum slope for the flared sides of perpendicular curb ramps should be increased from 10 percent to 12.5 percent or 16.7 percent, and what impact such a change would have on providing two perpendicular curb ramps at street corners. Comments are also requested on any public safety issues that may arise from increasing the maximum slope for the flared sides from 10 percent to 12.5 percent or 16.7 percent.

Parallel Curb Ramps (R304.3)

Parallel curb ramps have a running slope that is in-line with the direction of sidewalk travel and lower the sidewalk to a level turning space where a turn is made to enter the pedestrian street crossing.

A turning space must be provided at the bottom of parallel curb ramps. The turning space must be 1.2 meters (4 feet) minimum by 1.2 meters (4 feet) minimum, and is permitted to overlap other turning spaces and clear spaces. Where the turning space is constrained on two or more sides, the turning space must be 1.2 meters (4 feet) minimum by 1.5 meters (5 feet) minimum, with the 1.5 meters (5 feet) dimension provided in the direction of the pedestrian street crossing.

A minimum running slope of 5 percent and a maximum running slope of 8.3 percent are specified for parallel curb ramps, and the ramp length is limited to 4.5 meters (15 feet). A maximum running slope of

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2 percent is specified for the turning space at the bottom of the curb ramp. The running slope is measured parallel to the direction of pedestrian travel.

Blended Transitions (R304.4)

A maximum running slope of 5 percent is specified for blended transitions. The running slope is measured parallel to the direction of pedestrian travel.

Common Requirements (R304.5)

The clear width of curb ramp runs (excluding flared sides), blended transitions, and turning spaces must be 1.2 meters (4 feet) minimum. Grade breaks at the top and bottom of curb ramp runs must be perpendicular to the direction of the ramp run. Grade breaks are not permitted on the surface of ramp runs and turning spaces. Surface slopes that meet at grade breaks must be flush. A maximum cross slope of 2 percent is specified for curb ramps, blended transitions, and turning spaces. At pedestrian street crossings without yield or stop control and at midblock pedestrian street crossings, the cross slope is permitted to equal the street or highway grade. The cross slope is measured perpendicular to the direction of pedestrian travel. A maximum counter slope of 5 percent is specified for the gutter or street at the foot of curb ramp runs, blended transitions, and turning spaces. A clear space must be provided beyond the bottom of the grade break that is within the width of the pedestrian street crossing and wholly outside the parallel vehicle traffic lane. The clear space must be 1.2 meters (4 feet) minimum by 1.2 meters (4 feet) minimum.

R305 Detectable Warning Surfaces

Detectable warning surfaces consist of truncated domes aligned in a square or radial grid pattern. The dimensions for dome size and dome spacing are the same as in the 2004 ADA and ABA Accessibility Guidelines. The detectable warning surfaces must contrast visually with adjacent gutter, street or highway, or pedestrian access route surface, either light-on-dark or dark-on-light. The detectable warning surfaces must extend 610 millimeters (2 feet) minimum in the direction of pedestrian travel. At curb ramps and blended transitions, detectable warning surfaces must extend the full width of the ramp run (excluding flared sides), blended transition, or turning space. At pedestrian at-grade rail crossings not located within a street or highway, detectable warning surfaces must extend the full width of the crossing. At boarding platforms for buses and rail vehicles, detectable warning surfaces must extend the full length of the public use areas of the platform. At boarding and alighting areas at sidewalk or street level transit stops for rail vehicles, detectable warning surfaces must extend the full length of the transit stop. The proposed technical requirements specify where detectable warning surfaces must be placed on perpendicular curb ramps, parallel curb ramps, blended transitions, pedestrian refuge islands, pedestrian at-grade rail crossings, boarding platforms for buses and rail vehicles, and boarding and alighting areas at sidewalk or street level transit stops for rail vehicles.

R306 Pedestrian Street Crossings

The technical requirements in R306 address pedestrian signal phase timing and pedestrian street crossings at roundabouts and multi-lane channelized turn lanes.

Pedestrian Signal Phase Timing

Pedestrian signal phase timing must comply with referenced MUTCD standards and use a pedestrian clearance time that is calculated based on pedestrian walking speed of 1.1 meters/second (3.5 feet/second) or less.

Roundabouts

A roundabout is a circular intersection with yield control at entry, which permits a vehicle on the circulatory roadway to proceed, and with deflection of the approaching vehicle counter-clockwise around a central island (MUTCD section 1A.13). Pedestrian street crossings at roundabouts can be difficult for pedestrians who are blind or have low vision to identify because the crossings are located off to the side of the pedestrian circulation path around the street or highway. Where sidewalks are flush against the curb at roundabouts and pedestrian street crossing is not intended, a continuous and detectable edge treatment must be provided along the street side of the sidewalk at roundabouts. Detectable warning surfaces must not be used for edge treatment. Where chains, fencing, or railings are used for edge protection, the bottom edge of the treatment must be 380 millimeters (15 inches) maximum above the sidewalk to be detectable by cane.

The continuous traffic flow at roundabouts removes many of the audible cues that pedestrians who are blind use to navigate pedestrian street crossings. At roundabouts with multi-lane pedestrian street crossings, a pedestrian activated signal must be provided for each multilane segment of each crossing, including the splitter island (i.e., median island used to separate opposing directions of traffic entering and exiting a roundabout, MUTCD section 1A.13). Transportation officials who commented on the 2002 draft guidelines expressed concern that signalization of roundabouts would interfere with the flow of traffic at roundabout intersections. Pedestrian Hybrid Beacons can be used at roundabouts. See MUTCD sections 4F.01 through 4F.03. Pedestrian Hybrid Beacons are traffic signals that consist of a yellow signal centered below two horizontally aligned red signals. The signals are normally dark (i.e., not illuminated). The signals are initiated only upon pedestrian activation and can be timed to minimize the interruption of traffic. The signals cease operation after the pedestrian clears the crosswalk. When activated by a pedestrian, the following signals are displayed to drivers: a flashing yellow signal, then a steady yellow signal, then two steady red signals during the pedestrian walk interval, and then alternating flashing red signals during the pedestrian clearance interval. The following signals are displayed to pedestrians: a steady upraised hand (symbolizing DON'T WALK) when the flashing or steady yellow signal is operating, then a walking person (symbolizing WALK) when the steady red signals are operating, and then a flashing upraised hand (symbolizing DON'T WALK) when the alternating flashing red signals are operating. Transportation officials may request permission from the Federal Highway Administration to experiment with alternative signals at roundabouts (see MUTCD section 1A.10).⁴¹

41. The Federal Highway Administration has granted interim approval to Rectangular Flashing Rapid Beacons, which can be used at roundabouts. However, Rectangular Flashing Rapid Beacons do not provide positive indication to drivers to stop and positive indication to pedestrians that the walk interval has been actuated. Rectangular Flashing Rapid Beacons do not meet MUTCD standards for accessible pedestrian signals and pedestrian pushbuttons.

Multi-Lane Channelized Turn Lanes

Pedestrian activated signals must be provided at pedestrian street crossings at multi-lane channelized turn lanes at roundabouts and other signalized intersections. The pedestrian activated signals must comply with MUTCD standards for accessible pedestrian signals and pedestrian pushbuttons.

Governmental Units Affected

The requirement for pedestrian activated signals at roundabouts with multi-lane pedestrian street crossings will affect state and local transportation departments that construct new roundabouts with multi-lane pedestrian street crossings. The Volpe Center estimated that state and local transportation departments construct 27 new roundabouts with multi-lane pedestrian street crossings on an annual basis.⁴²

Costs to Provide Pedestrian Activated Signals at Roundabouts with Multi-Lane Pedestrian Street Crossings

The Volpe Center estimated the cost to provide pedestrian activated signals at new roundabouts with multi-lane pedestrian street crossings to range from \$90,000 to \$230,000 per roundabout, and the total annual costs for requiring pedestrian activated signals at new roundabouts with multi-lane pedestrian street crossings to range from \$2.4 million to \$6.2 million.

Question 19. The Access Board seeks additional information on the number of roundabouts with multi-lane pedestrian street crossings that are newly constructed on an annual basis by state and local transportation departments, and the costs to provide pedestrian activated signals at newly constructed roundabouts with multi-lane pedestrian street crossings.

R307 Accessible Pedestrian Signals and Pedestrian Pushbuttons (See R209)

In the 2005 draft of the proposed guidelines, the technical requirements for accessible pedestrian signals and pedestrian pushbuttons were contained in Chapter R3. The proposed guidelines reference MUTCD standards for accessible pedestrian signals and pedestrian pushbuttons in the scoping requirements at R209. This section heading is included in Chapter R3 of the proposed guidelines to notify readers who were familiar with the 2005 draft of the proposed guidelines where to find the requirements for accessible pedestrian signals and pedestrian pushbuttons. This section heading will not be included in the final guidelines.

R308 Transit Stops and Transit Shelters

42. The Volpe Center used the roundabout database at: <http://roundabout.kittelson.com/> to estimate the number of new roundabouts with multi-lane pedestrian street crossings that are constructed on an annual basis. During the five year period between 2005 and 2009, 435 new roundabouts were constructed, of which 117 were multi-lane. The data was adjusted for a small number of roundabouts that are listed in the database as having an "unknown" number of lanes and for roundabouts that do have any pedestrian facilities (i.e., sidewalks and pedestrian street crossings).

The technical requirements for transit stops and transit shelters are contained in R308 and adapt the technical requirements for transit facilities in the 2004 ADA and ABA Accessibility Guidelines to the public right-of-way.

Transit Stops (R308.1)

Boarding and alighting areas at sidewalk or street level transit stops must be 2.4 meters (8 feet) minimum measured perpendicular to the street or highway, and 1.5 meters (5 feet) minimum measured parallel to the street or highway. The grade of the boarding and alighting area parallel to the street or highway must be equal to street or highway grade to the extent practicable. The grade of the boarding and alighting area perpendicular to the street or highway must not exceed 2 percent. Where transit stops serve vehicles with more than one car, boarding and alighting areas serving each car must comply with these requirements.

Boarding platforms at transit stops must be positioned to coordinate with vehicles to minimize the vertical and horizontal gaps. The slope of boarding platforms must not exceed 2 percent in any direction. Where boarding platforms serve vehicles operating on existing track or existing street or highway, the slope of the platform parallel to the track or street or highway is permitted to equal the grade of the track or street or highway.

The surfaces of boarding and alighting areas and boarding platforms must comply with the technical requirements for surfaces (see R302.7). Boarding and alighting areas and boarding platforms must be connected to streets, sidewalks, or pedestrian circulation paths by a pedestrian access route.

Transit Shelters (R308.2)

Transit shelters must be connected by a pedestrian access route to boarding and alighting areas or boarding platforms. A clear space (see R404) must be provided entirely within the transit shelter. Where seating is provided within transit shelters, the clear space must be located either at the end of a seat, or not overlap the area within 460 millimeters (1.5 feet) from the front edge of the seat in order to not interfere with others using the seating. Environmental controls within transit shelters must be proximity actuated. Protruding objects within transit shelters must comply with the technical requirements for protruding objects (see R402).

The Access Board is considering whether to require a turning space in transit shelters. Transit shelter designs vary. Some transit shelters are enclosed on three or four sides, with an opening for ingress and egress. The turning space would be based on the 2004 ADA and ABA Accessibility Guidelines (see 304.3).⁴³ The turning space would be permitted to overlap the clear space within the transit shelter and

43. The 2004 ADA and ABA Accessibility Guidelines require a turning space to be either a circular space 1.5 meters (5 feet) minimum in diameter, or a T-shaped space within a square with sides 1.5 meters (5 feet) minimum where the arms and base of the T-shaped space are 915 millimeters (3 feet) minimum. Each arm of the T-shaped space must be clear of obstructions 305 millimeters (1 foot) minimum in each direction, and the base must be clear of obstructions 610 millimeters (2 feet) minimum. A circular space is permitted to include knee and toe clearance. A T-shaped space is permitted to include knee and toe clearance only at the end of either the base or one arm.

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the pedestrian access route, but would not be permitted to overlap the area within 460 millimeters (1.5 feet) from the front edge of seats in the transit shelter in order to not interfere with others using the seating. The portion of the turning space that does not overlap the clear space would be permitted to be outside the transit shelter.

Question 20. Comments are requested on whether a turning space should be required in transit shelters and what impact such a requirement would have on the design and placement of transit shelters?

R309 On-Street Parking Spaces**General (R309.1)**

The technical requirements for accessible on-street parking spaces are contained in R309 and adapt the technical requirements for accessible parking spaces in the 2004 ADA and ABA Accessibility Guidelines to the public right-of-way.

Parallel Parking Spaces (R309.2)

Where the adjacent sidewalk or available right-of-way is more than 4.3 meters (14 feet) wide, an access aisle must be provided at street level for the entire length of each accessible parallel parking space. The access aisle must be 1.5 meters (5 feet) wide minimum and connect to a pedestrian access route. The access aisle must not encroach on the vehicular travel lane and comply with the technical requirements for surfaces (see R302.7). In alterations where the street or sidewalk adjacent to the parking spaces is not altered, an access aisle is not required provided the parking spaces are located at the end of the block face.

Where the adjacent sidewalk or available right-of-way is less than or equal to 4.3 meters (14 feet) wide, an access aisle is not required, but accessible parallel parking spaces must be located at the end of the block face.

Perpendicular and Angled Parking Spaces (R309.3)

An access aisle must be provided at street level for the entire length of each accessible perpendicular or angled parking space. The access aisle must be 2.4 meters (8 feet) wide minimum to accommodate vans with lifts, and connect to a pedestrian access route. Two accessible parking spaces are permitted to share a common access aisle. The access aisle must be marked to discourage parking in the aisle and comply with the technical requirements for surfaces (see R302.7).

Curb Ramps and Blended Transitions (R309.4)

Curb ramps or blended transitions must connect the access aisle serving each accessible on-street parking space to the pedestrian access route. Curb ramps are not permitted within the access aisle. Parking spaces at the end of block face can be served by curb ramps or blended transitions at the pedestrian street crossing. Detectable warning surfaces are not required on curb ramps and blended transitions that connect the access aisle to the sidewalk, including where the sidewalk is at the same

level as the parking spaces, unless the curb ramps and blended transitions also serve pedestrian street crossings.

Parking Meters and Parking Pay Stations (R309.5)

Operable parts of parking meters and parking pay stations that serve accessible on-street parking spaces must comply with technical requirements for operable parts in Chapter R4. Displays and information must be visible from a point located 1 meter (3.3 feet) maximum above the center of the clear space in front of the parking meter or parking pay station. At accessible parallel parking spaces, parking meters must be located at the head or foot of the space.

R310 Passenger Loading Zones

The technical requirements for accessible passenger loading zones are the same as in the 2004 ADA and ABA Accessibility Guidelines. A vehicular pull-up space 2.4 meters (8 feet) wide minimum and 6.1 meters (20 feet) long minimum must be provided at accessible passenger loading zones. An access aisle must be provided at the same level as the vehicle pull-up space. The access aisle must be 1.5 meters (5 feet) wide minimum, extend the entire length of the vehicle pull-up space, and connect to the pedestrian access route. The access aisle must be marked to discourage parking in the aisle and comply with the technical requirements for surfaces (see R302.7).

Chapter R4: Supplementary Technical Requirements

Chapter R4 contains supplementary technical requirements that are the same as in the 2004 ADA and ABA Accessibility Guidelines unless otherwise noted below.

R401 General

The supplementary technical requirements in Chapter R4 apply where required by scoping requirements in Chapter R2, or where referenced by another technical requirement in Chapters R3 or R4.

R402 Protruding Objects

Objects with leading edges between 685 millimeters (2.25 feet) and 2 meters (6.7 feet) above the finish surface must not protrude into pedestrian circulation paths more than 100 millimeters (4 inches). Post-mounted objects such as signs that are between 685 millimeters (2.25 feet) and 2 meters (6.7 feet) above the finish surface must not overhang pedestrian circulation paths more than 100 millimeters (4 inches) measured horizontally from the base of the post. The post base must be 64 millimeters (2.5 inches) thick minimum. Where objects are mounted between posts and the clear distance between the posts is more than 305 millimeters (1 foot), the lowest edge of the object must be 685 millimeters (2.25 feet) minimum or 2 meters (6.7 feet) maximum above the finish surface. The requirement for post-mounted objects differs from the 2004 ADA and ABA Accessibility Guidelines but is consistent with the MUTCD which requires the bottom of signs installed on the sidewalk to be 7 feet minimum above the sidewalk, and the bottom of secondary signs (i.e., signs mounted below another sign) that are lower than 7 feet above the sidewalk to project not more than 4 inches into the sidewalk (see MUTCD section 2A.18).

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Guardrails or other barriers to pedestrian travel must be provided where the vertical clearance on pedestrian circulation paths is less than 2 meters (6.7 feet) high. The leading edge of the guardrail or barrier must be 685 millimeters (2.25 feet) maximum above the finish surface.

R403 Operable Parts

An operable part is a component of an element used to insert or withdraw objects, or to activate, deactivate, or adjust the element (see R105.5). The technical requirements for operable parts apply to operable parts on accessible pedestrian signals and pedestrian pushbuttons (see R209) and parking meters and parking pay stations that serve accessible parking spaces (see R309.5). A clear space must be provided at operable parts (see R404). Operable parts must be located within the reach ranges (see R406). Operable parts must be operable with one hand and not require tight grasping, pinching, or twisting of the wrist. The force required to activate operable parts must be no more than 22 newtons (5 pounds).

R404 Clear Spaces

Clear spaces are required at operable parts (see R403.2), including accessible pedestrian signals and pedestrian pushbuttons (see R209) and parking meters and parking pay stations that serve accessible parking spaces (see R309.5). Clear spaces are also required at benches (see R212.6) and within transit shelters (see R308.2). Clear spaces must be 760 millimeters (2.5 feet) minimum by 1220 millimeters (4 feet) minimum. Additional maneuvering space must be provided where an element is confined on all or part of three sides. Clear spaces are permitted to include knee and toe clearance and to be positioned for either forward or parallel approach to an element, unless another requirement specifies otherwise. The running slope of clear spaces is permitted to be consistent with the grade of the adjacent pedestrian access route. This requirement differs from the 2004 ADA and ABA Accessibility Guidelines which does not permit slopes steeper than 2 percent at clear spaces. A 2 percent maximum cross slope is specified for clear spaces. Clear spaces must comply with the technical requirements for surfaces (see R302.7).

R405 Knee and Toe Clearance

The technical requirements for knee and toe clearance apply where space beneath an element is included as part of the clear space.

R406 Reach Ranges

Forward and side reach ranges must be between 380 millimeters (1.25 feet) and 1220 millimeters (4 feet) above the finish surface. The requirements for reach ranges differ from the 2004 ADA and ABA Accessibility Guidelines in that forward reach over an obstruction is not permitted, and side reach over an obstruction is permitted where the depth of the obstruction between the clear space and the element is 225 millimeters (10 inches) maximum.

R407 Ramps**R408 Stairways****R409 Handrails**

R410 Visual Characters on Signs

R411 International Symbol of Accessibility

The technical requirements ramps, stairways, handrails, visual characters on signs, and the International Symbol of Accessibility are the same as in the 2004 ADA and ABA Accessibility Guidelines.

Other Issues

Rollability and Smoothness of Walking Surfaces

Rollability refers to the ease and comfort with which pedestrians using wheelchairs and other wheeled mobility devices can travel on walking surfaces. Rough or jointed walking surfaces can cause pedestrians using wheelchairs and other wheeled mobility devices to expend extra energy or pushing effort that makes it more difficult for them to use the walking surface, and the resulting surface vibration can cause discomfort or pain that may prevent them from using the walking surface all together. There are smoothness measures for road surfaces but no similar measures for walking surfaces. The Access Board is sponsoring preliminary research that will produce a plan for a test protocol and instrumentation to measure the rollability and smoothness of walking surfaces and to establish an index of surface vibration.

Question 21. The Access Board seeks information on related research and sources of expertise on measuring the rollability and smoothness of walking surfaces, including information from the medical community on the effects of surface vibration on individuals with disabilities.

Shared Streets

A shared street is a common space designed for use by pedestrians, bicyclists, and vehicles.⁴⁴ Shared streets typically do not have curbs and delineated sidewalks. Vehicles typically travel at low speeds on shared streets. Trees, planters, parking areas, and other obstacles may be placed on shared streets to slow vehicles. Shared streets can be in a commercial area or residential area. Shared streets are difficult for pedestrians who are blind or have low vision to navigate because of the absence of curbs and clearly delineated sidewalks.⁴⁵ The Pedestrian Accessibility and Movement Environment Laboratory at

44. The Pedestrian and Bicycle Information Center provides information on shared streets on its website at: <http://www.walkinginfo.org/engineering/calming-street.cfm>.

45. Focus groups and surveys of pedestrians who are blind or have low vision commissioned by the Guide Dogs for the Blind Association in the United Kingdom and Netherlands document the difficulties that these pedestrians have using shared streets. See "The Impact of Shared Surface Streets and Shared Use Pedestrian/Cycle Paths on the Mobility and Independence of Blind and Partially Sighted People" (2010) available at: http://gdbass.net/efficiency.co.uk/fileadmin/sharedsurfaces/user/documents/TNS_Report_Text_version_Impact_of_shared_surface_streets_and_shared_use_paths_GD_2010.doc ; "Shared Surface Street Design Research Project, The Issues: Report of Focus Groups" (2006) at http://community.stroud.gov.uk/documents/23_Shared_Surface_Street_Design_Research_Project.pdf ; and "Shared Surface Street Design: Report of Focus Groups Held in Holland" (2006) at http://www.alan-hunt.co/pdf/Report_of_Holland_Focus_Groups.pdf.

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University College London has conducted limited research on the use of tactile surfaces to delineate the space on shared streets that is to be used exclusively by pedestrians, and not vehicles.⁴⁶ The tactile surfaces tested included raised truncated domes that, in the United States, are used as detectable warning surfaces on curb ramps and blended transitions to indicate the boundary between the pedestrian route and the vehicular route at pedestrian street crossings. Using detectable warning surfaces to facilitate wayfinding along shared streets would be expanding the use of such surfaces.

Question 22. The Access Board seeks information on the design of shared streets in the United States, and whether tactile surfaces or other design features are used to facilitate wayfinding along shared streets. The Access Board also seeks information about other research that is planned or underway on the use of tactile surfaces or other design features to facilitate wayfinding along shared streets.

Regulatory Process Matters**Executive Orders 12866 and 13563**

The Office of Management and Budget has reviewed this proposed rule pursuant to Executive Orders 12866 and 13563.⁴⁷ The Access Board prepared a regulatory assessment of the potential costs and benefits of the proposed rule. The regulatory assessment is available on the Access Board website at: <http://www.access-board.gov/prowac/index.htm>, and is also available in the regulatory docket at <http://www.regulations.gov>. The information in the regulatory assessment is discussed in the preamble under Impacts on State and Local Governments and under the relevant requirements in the Section-by-Section Analysis. The information in the regulatory assessment is also summarized in the tables below. As indicated in the tables below, the regulatory assessment does not include estimates of the total annual costs for two of the requirements in the proposed guidelines that will have more than minimal impacts because information is not available to estimate the costs. Questions are included in the preamble seeking additional information to assist the Board to estimate the total annual costs of these two

46. "Shared Space Delineators, Are They Detectable?" (2010) available at: http://www.tap.iht.org/objects_store/201004/TfL%20Report%2020100415.pdf. See also "Testing Proposed Delineators to Demarcate Pedestrian Paths in a Shared Space Environment, Report of Design Trials Conducted at University College London" (2008) available at: <http://www.homezones.org.uk/public/downloads/news/Exec%20Summary%20&%20Full%20Report%20of%20design%20trials%20at%20UCL%20PAMELA%2020108.pdf>.

47. Executive Orders 12866 and 13563 establish and reaffirm principles of regulation that direct federal agencies among other things to: "(1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public." Executive Order 13563, section 1 (b).

requirements and to refine the cost estimates for the other requirements in the proposed guidelines. Consequently, the Access Board has not determined whether the proposed guidelines are an economically significant regulatory action.⁴⁸ The Access Board will analyze the information received in response to the questions in the preamble. When the final guidelines are issued, the Access Board will revise the regulatory assessment and determine whether the guidelines are an economically significant regulatory action.

Baseline

All state transportation departments and most local transportation departments maintain design manuals and standard drawings for improvements in the public right-of-way. The local transportation department design manuals and standard drawings are generally consistent with their state transportation department design manuals and standard drawings. State and local transportation departments use publications issued by the American Association of State and Highway Transportation Officials (AASHTO) in their design manuals and standard drawings, including the “Policy on Geometric Design of Highways and Streets” (2004) (commonly referred to as the “AASHTO Green Book”) and the “Guide for the Planning, Design, and Operation of Pedestrian Facilities” (2004) which incorporate accessibility in the design of sidewalks and other pedestrian facilities.⁴⁹ The Federal Highway Administration as part of its stewardship and oversight responsibilities has also worked with state transportation departments to incorporate accessibility in their design manuals and standards drawings. The Federal Highway Administration has issued guidance that the accessibility standards in the Department of Justice regulations implementing Title II of the Americans with Disabilities Act and the Department of Transportation regulations implementing Section 504 are to be used to the extent feasible for the design of pedestrian facilities in the public right-of-way until new accessibility standards are adopted for these facilities.

In the absence of the proposed guidelines, the regulatory assessment assumes that state and local transportation departments will use the DOJ 2010 Standards in the Department of Justice regulations implementing Title II of the Americans with Disabilities Act to the extent feasible when designing, constructing, or altering pedestrian facilities in the public right-of-way, consistent with the guidance issued by the Federal Highway Administration, as well as other applicable standards and industry practices. An analysis of the proposed guidelines compared to the DOJ 2010 Standards, other applicable standards, and industry practices is included in the appendix to the regulatory assessment. The analysis identified four requirements in the proposed guidelines that will have more than minimal impacts on state and local transportation departments. The factors used to identify whether the requirements in the proposed guidelines will have more than minimal impacts are discussed in the regulatory assessment and in the preamble under Impacts on State and Local Governments. The four requirements in the proposed guidelines that will have more than minimal impacts on state and local transportation departments are summarized in the table below, along with a description of the

48. A regulatory action is economically significant if it is anticipated to “[h]ave an annual effect on the economy of \$100 million or more” or to “adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government communities.” Executive Order 12866, section 2 (f) (1).

49. See footnote 20 for additional information on the AASHTO publications and accessibility.

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governmental units affected by proposed requirements and questions in the preamble to the proposed guidelines that seek additional information on the governmental units affected.

Requirements in Proposed Guidelines That Will Have More Than Minimal Impacts on State and Local Transportation Departments

| Requirement | Governmental Units Affected |
|--|---|
| <p>Detectable warning surfaces required on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings (R208.1 and R305)</p> | <p>Will affect state and local transportation departments that do not currently provide detectable warning surfaces on curb ramps</p> <p>All state transportation departments currently specify detectable warning surfaces on curb ramps in their standard drawings; most local transportation departments maintain standard drawings that are consistent with standard drawings maintained by their state transportation departments</p> <p>Questions 4, 5, and 6 in preamble seek information on state and local transportation departments that do not currently provide detectable warning surfaces on curb ramps</p> |
| <p>Accessible pedestrian signals and pushbuttons required when pedestrian signals newly installed or replaced at signalized intersections (R209)</p> | <p>Will affect state and local transportation departments that do not currently provide accessible pedestrian signals and pedestrian pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections</p> <p>Some state and local transportation departments currently provide accessible pedestrian signals and pedestrian pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections; TEA-21 (23 U.S.C. 217 (g)) directed that audible traffic signals be included in transportation plans and projects where appropriate</p> <p>Question 9 in preamble seeks information on state and local transportation departments that currently provide accessible pedestrian signals and pedestrian pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections</p> |

Requirements in Proposed Guidelines That Will Have More Than Minimal Impacts on State and Local Transportation Departments

| Requirement | Governmental Units Affected |
|--|--|
| Maximum cross slope of 2 percent required on pedestrian access routes, including within pedestrian street crossings with yield or stop control (R204.3 and R302.6) | <p>Will affect state and local transportation departments that construct new tabled intersections in hilly urban areas which contain pedestrian street crossings with yield or stop control</p> <p>Question 14 in preamble seeks information on the current design policies and practices of state and local transportation departments with respect to tabling newly constructed intersections in hilly urban areas, particularly with respect to extending the tabling to pedestrian street crossings with yield or stop control</p> |
| Pedestrian activated signals required at roundabouts with multi-lane pedestrian crossings (R206 and R306.3.2) | Will affect state and local transportation departments that construct new roundabouts with multi-lane pedestrian street crossings |

The Access Board entered into an interagency agreement with the Volpe National Transportation Systems Center (Volpe Center) to gather data and prepare cost estimates for the regulatory assessment. The cost estimates prepared by the Volpe Center are summarized in the table below, along with questions in the preamble to the proposed guidelines that seek additional information to refine the cost estimates.

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Estimated Total Annual Costs for Requirements That Will Have More Than Minimal Impacts on State and Local Transportation Departments

| Requirement | Additional Costs Per Element or Facility Due to Requirement | Number of Elements or Facilities Constructed or Altered on Annual Basis | Total Annual Costs for Requirement |
|---|---|---|---|
| Detectable warning surfaces required on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings (R208.1 and R305) | <p>\$48 to \$240 for detectable warning materials for typical curb ramp</p> <p>Question 8 in preamble seeks additional information on costs for detectable warning materials and installation of the materials on typical curb ramp</p> | <p>No information available</p> <p>Question 7 in preamble seeks information on number of curb ramps that are constructed or altered on an annual basis in the public right-of-way</p> | <p>No estimate provided</p> <p>Total annual costs will depend on number of state and local transportation departments that do not currently provide detectable warning surfaces on curb ramps, and number of curb ramps that they construct or alter on an annual basis</p> |
| Accessible pedestrian signals and pushbuttons required when pedestrian signals newly installed or replaced at signalized intersections (R209) | <p>\$3,600 per signalized intersection</p> <p>Question 10 in preamble seeks additional information on costs for providing accessible pedestrian signals and pedestrian pushbuttons at signalized intersections</p> | <p>Pedestrian signals newly installed or replaced at 13,095 signalized intersections on an annual basis</p> | <p>\$47 million</p> |

Estimated Total Annual Costs for Requirements That Will Have More Than Minimal Impacts on State and Local Transportation Departments

| Requirement | Additional Costs Per Element or Facility Due to Requirement | Number of Elements or Facilities Constructed or Altered on Annual Basis | Total Annual Costs for Requirement |
|--|---|---|--|
| Maximum cross slope of 2 percent required on pedestrian access routes, including within pedestrian street crossings with yield or stop control (R204.3 and R302.6) | \$60,000 per tabled intersection Question 15 in preamble seeks additional information on costs to extend tabling of newly constructed intersections in hilly urban areas to pedestrian street crossings with yield or stop control | No information available Question 16 in preamble seeks information on number of tabled intersections which contain pedestrian street crossings with yield or stop control that are newly constructed in hilly urban areas on an annual basis | No estimate provided Total annual costs will depend on number of tabled intersections which contain pedestrian street crossings with yield or stop control that are newly constructed in hilly urban areas on an annual basis |
| Pedestrian activated signals required at roundabouts with multi-lane pedestrian crossings (R206 and R306.3.2) | \$90,000 to \$230,000 per roundabout Question 19 in preamble seeks additional information on costs to provide pedestrian activated signals at roundabouts with multi-lane pedestrian crossings | 27 new roundabouts with multi-lane pedestrian street crossings constructed on an annual basis | \$2.4 million to \$6.2 million |

Benefits

The proposed guidelines will benefit pedestrians with disabilities. The U.S. Census Bureau reports that 54.4 million Americans, about one in five U.S. residents, reported some level of disability in 2005.⁵⁰ The number of individuals with disabilities is almost equal to the combined total population of California and Florida. The U.S. Census Bureau provides this breakdown of the population of people aged 15 and older:

- 27.4 million (11.9 percent) had difficulty with ambulatory activities of the lower body;

50. "Americans with Disabilities: 2005" (2008) available on the web at: <http://www.census.gov/prod/2008pubs/p70-117.pdf>.

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- 22.6 million people (9.8 percent) had difficulty walking a quarter of a mile;
- 21.8 million (9.4 percent) had difficulty climbing a flight of stairs;
- 10.2 million (4.4 percent) used a cane, crutches, or walker to assist with mobility;
- 3.3 million (1.4 percent) used a wheelchair or other wheeled mobility device; and
- 7.8 million (3 percent) had difficulty seeing words or letters in ordinary newspaper print, including 1.8 million who are completely unable to see.

Executive Order 13563 states that to the extent permitted by law federal agencies must “propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify)” and that “where appropriate and permitted by law, each agency may consider and (discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.” The proposed guidelines promote important societal values that are difficult or impossible to quantify. As discussed above under the Need for Rulemaking, when enacting the Americans with Disabilities Act, Congress found “the discriminatory effects of architectural, transportation, and communication barriers” to be a continuing problem that “denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.” 42 U.S.C. 12101 (a) (5) and (9). Congress declared that “the Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency.” 42 U.S.C. 12101 (a) (8). The proposed guidelines promote the goals declared by Congress by eliminating the discriminatory effects of architectural, transportation, and communication barriers in the design and construction of pedestrian facilities in the public right-of-way. The proposed guidelines are also important to achieving the benefits of the other parts of the Americans with Disabilities Act. As the House Report for the Americans with Disabilities Act stated, “[t]he employment, transportation, and public accommodation sections . . . would be meaningless if people who use wheelchairs were not afforded the opportunity to travel on and between the streets.” H.R. 485, 101st Cong., 2d Sess. 84 (1990).

Question 23. Comments are requested on whether the proposed guidelines have other quantitative or qualitative benefits in addition to those discussed above.

Regulatory Flexibility Act: Initial Regulatory Flexibility Analysis

The impacts of the proposed guidelines on small governmental jurisdictions with a population of less than 50,000 are discussed below. This information is required by the Regulatory Flexibility Act (5 U.S.C. §603).

Reasons for issuing proposed accessibility guidelines

The Access Board’s current accessibility guidelines, the 2004 ADA and ABA Accessibility Guidelines, were developed primarily for buildings and facilities on sites. Some of the requirements in the 2004 ADA and ABA Accessibility Guidelines can be readily applied to pedestrian facilities in the public right-of-way, but other requirements need to be adapted for pedestrian facilities in the public right-of-way. The proposed guidelines are developed specifically for pedestrian facilities in the public right-of-way and address conditions and constraints that exist in the public right-of-way.

Objectives of, and legal basis for, proposed accessibility guidelines

The Access Board is required to issue accessibility guidelines by the Americans with Disabilities Act (42 U.S.C. §12204) and Section 502 of the Rehabilitation Act (29 U.S.C. §792) to ensure that newly constructed and altered facilities are readily accessible to and usable by pedestrians with disabilities.

Small governmental jurisdictions affected by proposed accessibility guidelines

The number of small governmental jurisdictions with a population less than 50,000 affected by the proposed guidelines is shown in the table below.

| Governmental Jurisdictions | Population Less Than 50,000 |
|-----------------------------------|------------------------------------|
| County | 2,178 |
| Municipal | 18,824 |
| Town or Township | 16,371 |
| Total | 37,375 |

Source: US Census Bureau 2002 Census of Governments available at: <http://www.census.gov/prod/2003pubs/gc021x1.pdf>.

Almost 70 percent of municipal governments (13,038) and more than 75 percent of towns and townships (12,331) have a population of less than 2,500. Many of these small governmental jurisdictions are located in rural areas, which generally do not construct pedestrian transportation networks (e.g., sidewalks, pedestrian street crossings, and pedestrian signals).

Compliance requirements

The proposed accessibility guidelines address the design, construction, and alteration of pedestrian facilities in the public right-of-way, including sidewalks, pedestrian street crossings, pedestrian overpasses and underpasses, curb ramps and blended transitions at pedestrian street crossings, pedestrian signals, street furniture (i.e., drinking fountains, public toilet facilities, tables, counters, and benches), pedestrian signs, transit stops and transit shelters for buses and light rail vehicles, on-street parking that is marked or metered, and passenger loading zones. The Section-by-Section Analysis of the preamble describes the proposed accessibility guidelines. Compliance with the proposed accessibility guidelines is not mandatory until they are adopted, without or without additions and modifications, as accessibility standards by other federal agencies. There are no reporting or recordkeeping requirements.

Other federal rules

The Department of Justice, Department of Transportation, and General Services Administration are responsible for issuing accessibility standards that are consistent with the accessibility guidelines issued by the Access Board and are expected to conduct rulemaking to adopt the proposed guidelines, with or

Public Rights-of-Way Accessibility Guidelines: Preamble

without additions and modifications, as accessibility standards in regulations implementing Title II of the Americans with Disabilities Act (28 CFR part 36 and 49 CFR part 37), Section 504 of the Rehabilitation Act (49 CFR part 27), and the Architectural Barriers Act (41 CFR part 102). Additional information on these laws and regulations is provided under the Statutory and Regulatory Background in the preamble to the proposed guidelines.

Significant alternatives which minimize any significant economic impacts on small entities

The regulatory assessment analyzes the following four requirements in the proposed guidelines that will have more than minimal impacts on state and local transportation departments:

- **Detectable warning surfaces required on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings (see R208.1 and R305).** Detectable warning surfaces consist of small truncated domes that are detectable underfoot. Where curb ramps or blended transitions are provided at pedestrian street crossings, detectable warning surfaces indicate the boundary between a pedestrian route and a vehicular route for pedestrians who are blind or have low vision in place of the missing curb.
- **Accessible pedestrian signals and pedestrian pushbuttons required when pedestrian signals newly installed or replaced at signalized intersections (see R209).** Accessible pedestrian signals and pedestrian pushbuttons communicate the information about the WALK and DON'T WALK intervals at signalized intersections in non-visual formats (i.e., audible tones and vibrotactile surfaces) to pedestrians who are blind or have low vision.
- **Maximum cross slope of 2 percent required on pedestrian access routes, including within pedestrian street crossings with yield or stop control.** Cross slope is the slope perpendicular to the direction of pedestrian travel. Cross slope impedes travel by pedestrians who use wheeled mobility devices since energy must be expended to counteract the perpendicular force of the cross slope. The 2 percent maximum cross slope required on pedestrian access routes has more than minimal impacts on the construction of new tabled intersections in hilly urban areas that contain pedestrian street crossings with yield or stop control where vehicles slow or stop before proceeding through the intersection.
- **Pedestrian activated signals at roundabouts with multi-lane pedestrian street crossings.** A roundabout is a circular intersection with yield control at entry, which permits a vehicle on the circulatory roadway to proceed, and with deflection of the approaching vehicle counter-clockwise around a central island. Pedestrian activated signals are required at roundabouts with multi-lane pedestrian street crossings to facilitate crossing by pedestrians who are blind or have low vision. Small governmental jurisdictions with a population less than 50,000 are not likely to construct roundabouts with multi-lane pedestrian street crossings and will not be affected by this requirement.

There are no significant alternatives that will minimize any significant impacts of these requirements on small governmental jurisdictions and achieve the objectives of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Architectural Barriers Act to eliminate the discriminatory effects of architectural, transportation, and communication barriers in the design and construction of pedestrian facilities in the public right-of-way.

Executive Order 13132: Federalism

The proposed rule adheres to the fundamental federalism principles and policy making criteria in Executive Order 13132. The proposed rule is issued under the authority of the Americans with Disabilities Act, civil rights legislation that was enacted by Congress pursuant to its authority to enforce the Fourteenth Amendment to the U.S. Constitution and to regulate commerce. The Americans with Disabilities Act was enacted “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” 42 U.S.C. §12101 (b) (1). The Americans with Disabilities Act recognizes the authority of State and local governments to enact and enforce laws that “provide for greater or equal protection for the rights of individuals with disabilities than are afforded by this chapter.” 42 U.S.C. §12201 (b). The proposed rule is based on the recommendations of a federal advisory committee which included representatives of state and local governments. The Access Board made drafts of the proposed rule available for public review and comment. State and local governments provided comments on the drafts of the proposed rule.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act does not apply to proposed or final rules that enforce constitutional rights of individuals or enforce statutory rights that prohibit discrimination on the basis of race, color, sex, national origin, age, handicap, or disability. Since the proposed rule is issued under the Americans with Disabilities Act, which prohibits discrimination on the basis of disability, an assessment of the rule’s effect on State, local, and tribal governments, and the private sector is not required by the Unfunded Mandates Reform Act.

List of Subjects in 36 CFR Part 1190

Buildings and facilities, Civil rights, Individuals with disabilities, Transportation.

Nancy Starnes,

Chair.

Public Rights-of-Way Accessibility Guidelines: Preamble

For the reasons stated in the preamble, the Access Board proposes to add part 1190 to title 36 of the Code of Federal Regulations to read as follows:

PART 1190 –ACCESSIBILITY GUIDELINES FOR PEDESTRIAN FACILITIES IN THE PUBLIC RIGHT-OF-WAY

Sec.

1190.1 Accessibility guidelines.

Appendix to part 1190 – Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

Authority: 29 U.S.C. 792 and 42 U.S.C. 12204.

§ 1190.1 Accessibility Guidelines.

The accessibility guidelines for pedestrian facilities in the public right-of-way are set forth in the appendix to this part. When the guidelines are adopted, with or without additions and modifications, as accessibility standards in regulations issued by other federal agencies implementing the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Architectural Barriers Act, compliance with the accessibility standards is mandatory. A copy of the guidelines with figures is available on the Access Board website at: <http://www.access-board.gov/prowac/nprm.htm>. Except for the International Symbol of Accessibility in Figure R411, which is included in the appendix to this part, the figures are for illustration purposes only and do not establish requirements.

CHAPTER R1: APPLICATION AND ADMINISTRATION

R101 Purpose

R101.1 General. This document contains scoping and technical requirements to ensure that facilities for pedestrian circulation and use located in the public right-of-way are readily accessible to and usable by pedestrians with disabilities. Compliance with this document is mandatory when required by regulations issued by federal agencies that include accessibility standards for the design, construction, and alteration of pedestrian facilities in the public right-of-way.

Advisory R101.1 General. Sections marked as “advisory” contain advisory information related to the preceding section. Advisory sections do not establish mandatory requirements. Some advisory sections reference related mandatory requirements to alert readers about those requirements.

R101.2 Effect on Existing Facilities. This document does not address existing facilities unless the facilities are included within the scope of an alteration undertaken at the discretion of a covered entity.

Advisory R101.2 Effect on Existing Facilities. The Department of Justice regulations implementing Title II of the Americans with Disabilities Act contain requirements for state and local governments regarding program accessibility and existing facilities. See 28 CFR 35.150. The Department of Transportation regulations implementing Section 504 of the Rehabilitation Act also contain requirements for recipients of federal financial assistance from the Department regarding compliance planning. See 49 CFR 27.11 (c).

R102 Equivalent Facilitation. The use of alternative designs, products, or technologies that result in substantially equivalent or greater accessibility and usability than the requirements in this document is permitted.

R103 Conventions

R103.1 Conventional Industry Tolerances. Dimensions are subject to conventional industry tolerances except where dimensions are stated as a range.

Advisory R103.1 Conventional Industry Tolerances. Conventional industry tolerances include tolerances for field conditions and tolerances that may be a necessary consequence of a particular manufacturing process. Conventional industry tolerances do not apply to design work.

R103.2 Calculation of Percentages. Where the required number of elements or facilities to be provided is determined by calculations of ratios or percentages and remainders or fractions result, the next greater whole number of such elements or facilities shall be provided. Where the determination of the required size or dimension of an element or facility involves ratios or percentages, rounding down for values less than one half is permitted.

| Convention | Description |
|------------|--|
| | dimension showing International System of Units (in millimeters unless otherwise specified) above the line and US customary units (in inches unless otherwise specified) below |
| | dimension for small measurements |
| | dimension showing a range with minimum - maximum |
| min | minimum |
| max | maximum |
| > | greater than |
| ≥ | greater than or equal to |
| < | less than |
| ≤ | less than or equal to |
| | boundary of clear floor space or maneuvering clearance |
| | centerline |
| | a permitted element or its extension |
| | direction of travel or approach |
| | a highlighted element in elevation or plan |
| | location zone of element, control or feature |

Figure R103
Graphic Convention for Figures

R103.3 Units of Measurement. Measurements are stated in metric and U.S. customary units. The values stated in each system (metric and U.S. customary units) may not be exact equivalents, and each system shall be used independently of the other.

Advisory R103.3 Units of Measurement. Users should work entirely within one system of measurement, either metric or U.S. customary units. Combining values from the two systems may result in non-compliance.

R104 Referenced Standards

R104.1 Incorporation by Reference. The specific editions of the standards listed in R104.2 are incorporated by reference in this document and are part of the requirements to the prescribed extent of each such reference. The Director of the Federal Register has approved the standards for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the referenced standards may be inspected at the Access Board, 1331 F Street, NW, Suite 1000, Washington, DC 20004; or at the National Archives and Records Administration (NARA). For information on the availability of the referenced standards at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

R104.2 MUTCD. The portions of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 2009 Edition, that are incorporated by reference in this document consist of definitions (see R105.2) and standard statements, as defined in section 1A.13 of the MUTCD (see R205, R209, and R306.3). Guidance, option, and support statements, as defined in section 1A.13 of the MUTCD, shall be used to assist in the interpretation of the standard statements. Where there are differences between this document and the referenced standards, this document applies. The MUTCD is available on the Federal Highway Administration website at <http://mutcd.fhwa.dot.gov>. Printed copies may be purchased from the American Association of State Highway and Transportation Officials, 444 N Capitol Street, NW, Washington, DC 20001 (<http://www.transportation.org/>).

Advisory R104.2 MUTCD. MUTCD definitions and standard statements are referenced in the following sections of this document:

- R105.2 references definitions in section 1A.13 of the MUTCD;
- R205 references standard statements in sections 6D.01, 6D.02, 6G.05, 6F.63, 6F.68, and 6F.71 of the MUTCD for providing alternate pedestrian access routes when a pedestrian circulation path is temporarily closed;
- R209 references standard statements in sections 4E.08 through 4E.13 of the MUTCD for accessible pedestrian signals and pedestrian pushbuttons; and
- R306.2 references standard statements in section 4E.06 of the MUTCD for pedestrian signal phase timing.

R105 Definitions

R105.1 General. For the purpose of this document, the terms defined in R105.5 have the indicated meaning.

R105.2 Terms Defined in Referenced Standards. Terms used in specific sections of the MUTCD that are incorporated by reference in this document shall have the meaning specified in section 1A.13 of the MUTCD (incorporated by reference, see R104.2). In addition, the following terms shall have the meaning specified in section 1A.13 of the MUTCD (incorporated by reference, see R104.2): highway, intersection, island, median, pedestrian, roundabout, sidewalk, splitter island, and street.

R105.3 Undefined Terms. The meaning of terms not specifically defined in R105.5, the referenced standards, or regulations issued by Federal agencies that adopt this document as accessibility standards shall be as defined by collegiate dictionaries in the sense that the context implies.

R105.4 Interchangeability. Words, terms, and phrases used in the singular include the plural and those used in the plural include the singular.

R105.5 Defined Terms.

Accessible. Describes a facility in the public right-of-way that complies with this document.

Alteration. A change to a facility in the public right-of-way that affects or could affect pedestrian access, circulation, or use. Alterations include, but are not limited to, resurfacing, rehabilitation, reconstruction, historic restoration, or changes or rearrangement of structural parts or elements of a facility.

Blended Transition. A raised pedestrian street crossing, depressed corner, or similar connection between the pedestrian access route at the level of the sidewalk and the level of the pedestrian street crossing that has a grade of 5 percent or less.

Cross Slope. The grade that is perpendicular to the direction of pedestrian travel.

Curb Line. A line at the face of the curb that marks the transition between the curb and the gutter, street, or highway.

Curb Ramp. A ramp that cuts through or is built up to the curb. Curb ramps can be perpendicular or parallel, or a combination of parallel and perpendicular ramps.

Element. An architectural or mechanical component of a building, facility, space, site, or public right-of-way.

Facility. All or any portion of buildings, structures, improvements, elements, and pedestrian or vehicular routes located in the public right-of-way.

Grade Break. The line where two surface planes with different grades meet.

Operable Part. A component of an element used to insert or withdraw objects, or to activate, deactivate, or adjust the element.

Pedestrian Access Route. A continuous and unobstructed path of travel provided for pedestrians with disabilities within or coinciding with a pedestrian circulation path.

Pedestrian Circulation Path. A prepared exterior or interior surface provided for pedestrian travel in the public right-of-way.

Public Right-of-Way. Public land or property, usually in interconnected corridors, that is acquired for or dedicated to transportation purposes.

Qualified Historic Facility. A facility that is listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law.

Running Slope. The grade that is parallel to the direction of pedestrian travel.

Vertical Surface Discontinuities. Vertical differences in level between two adjacent surfaces.

Public Rights-of-Way Accessibility Guidelines: CHAPTER R1: APPLICATION AND ADMINISTRATION

CHAPTER R2: SCOPING REQUIREMENTS

R201 Application

R201.1 Scope. All newly constructed facilities, altered portions of existing facilities, and elements added to existing facilities for pedestrian circulation and use located in the public right-of-way shall comply with the requirements in this document.

Advisory R201.1 Scope. The requirements in this document are to be applied to all areas of a facility within the scope of the project. Where multiple features of the same type are provided, such as on-street parking spaces, and a percentage of the features are required to be accessible, only the required number of features must comply with the technical requirements in this document and be connected to a pedestrian access route. Where elements are provided on a site that is a designated portion of a public right-of-way, the elements are required to comply with the applicable requirements in this document instead of the requirements in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities and the Architectural Barriers Act Accessibility Guidelines (36 CFR part 1191).

R201.2 Temporary and Permanent Facilities. The requirements in this document shall apply to temporary and permanent facilities in the public right-of-way.

Advisory R201.2 Temporary and Permanent Facilities. Temporary pedestrian circulation paths around work zones and portable public toilets are examples of temporary facilities in the public right-of-way that are covered by the requirements in this document.

R201.3 Buildings and Structures. Buildings and structures in the public right-of-way that are not covered by the requirements in this document shall comply with the applicable requirements in 36 CFR part 1191.

Advisory R201.3 Buildings and Structures. Towers and temporary performance stages and reviewing stands are examples of structures that may be provided in the public right-of-way and are not covered by the requirements in this document. These structures are required to comply with the applicable requirements in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities and the Architectural Barriers Act Accessibility Guidelines (36 CFR part 1191).

R202 Alterations and Elements Added to Existing Facilities

R202.1 General. Alterations and elements added to existing facilities shall comply with R202. Where elements are altered or added and the pedestrian circulation path to the altered or added elements is not altered, the pedestrian circulation path is not required to comply with R204.

Advisory R202.1 General. Where possible, added elements should be located on an existing pedestrian access route.

R202.2 Added Elements. Where elements are added to existing facilities, the added elements shall comply with the applicable requirements for new construction.

R202.3 Alterations. Where existing elements, spaces, or facilities are altered, each altered element, space, or facility within the scope of the project shall comply with the applicable requirements for new construction.

Advisory R202.3 Alterations. The alteration of multiple elements or spaces within a facility may provide a cost-effective opportunity to make the entire facility or a significant portion of the facility accessible.

R202.3.1 Existing Physical Constraints. Where existing physical constraints make it impracticable for altered elements, spaces, or facilities to fully comply with the requirements for new construction, compliance is required to the extent practicable within the scope of the project. Existing physical constraints include, but are not limited to, underlying terrain, right-of-way availability, underground structures, adjacent developed facilities, drainage, or the presence of a notable natural or historic feature.

R202.3.2 Transitional Segments. Transitional segments of pedestrian access routes shall connect to existing unaltered segments of pedestrian circulation paths and shall comply with R302 to the extent practicable.

R202.3.3 Reduction in Access Prohibited. An alteration shall not decrease or have the effect of decreasing the accessibility of a facility or an accessible connection to an adjacent building or site below the requirements for new construction in effect at the time of the alteration.

Advisory R202.3.3 Reduction in Access Prohibited. Sidewalk improvements that correct existing excessive cross slope should be carefully planned to avoid creating excessive slope in curb ramps or adding a step at existing building entrances. Solutions may include:

- Split sidewalks that serve building entrances and street or highway at separate levels;
- Sidewalks with greater cross slope along the curb and pedestrian access routes with lesser cross slope along building fronts;
- Pedestrian access routes along the curb and ramped entrances to buildings.

R202.3.4 Alterations to Qualified Historic Facilities. Where the State Historic Preservation Officer or Advisory Council on Historic Preservation determines that compliance with a requirement would threaten or destroy historically significant features of a qualified historic facility, compliance shall be required to the extent that it does not threaten or destroy historically significant features of the facility.

Advisory R202.3.4 Alterations to Qualified Historic Facilities. Where there is a federal agency “undertaking”, as defined in 36 CFR 800.16 (y), the requirements in section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and 36 CFR part 800 apply. Location of a facility within an historic district by itself does not excuse compliance with the requirements in this document. The State Historic Preservation Officer or Advisory Council on Historic Preservation must determine that compliance would threaten or destroy historically significant features of the facility. Reproductions or replications of historic facilities are not qualified historic facilities.

R203 Machinery Spaces. Vaults, tunnels, and other spaces used by service personnel only for maintenance, repair, or monitoring are not required to comply with this document.

R204 Pedestrian Access Routes

R204.1 General. Pedestrian access routes shall be provided in accordance with R204 and shall comply with R302.

Advisory R204.1 General. The Federal Highway Administration (FHWA) has issued guidance on the obligations of state and local governments to keep pedestrian access routes open and usable throughout the year, including snow and debris removal. The guidance is available at FHWA’s website:

http://www.fhwa.dot.gov/civilrights/programs/ada_sect504qa.htm.

R204.2 Sidewalks. A pedestrian access route shall be provided within sidewalks and other pedestrian circulation paths located in the public right-of-way. The pedestrian access route shall connect to accessible elements, spaces, and facilities required by this document and to accessible routes required by section 206.2.1 of appendix B to 36 CFR part 1191 or section F206.2.1 of appendix C to 36 CFR 1191 that connect building and facility entrances to public streets and sidewalks.

Advisory R204.2 Sidewalks. The accessible elements, spaces, and facilities located in the public right-of-way that pedestrian access routes must connect to include accessible pedestrian signals and pedestrian pushbuttons (see R209), street furniture (see R212), boarding and alighting areas and boarding platforms at transit stops (see R213 and R308.1.3.2), transit shelters (see R213 and R308.2), accessible on-street parking spaces (see R214 and R309), parking meters and parking pay stations serving accessible parking spaces (see R309.5), and accessible passenger loading zones (see R215 and R310).

R204.3 Pedestrian Street Crossings. A pedestrian access route shall be provided within pedestrian street crossings, including medians and pedestrian refuge islands, and pedestrian at-grade rail crossings. The pedestrian access route shall connect departure and arrival sidewalks.

R204.4 Pedestrian Overpasses and Underpasses. A pedestrian access route shall be provided within overpasses, underpasses, bridges, and similar structures that contain pedestrian circulation paths. Where an overpass, underpass, bridge, or similar structure is designed for pedestrian use only and the approach slope to the structure exceeds 5 percent, a ramp, elevator, limited use/limited application

elevator, or platform lift shall be provided. Elevators and platform lifts shall be unlocked during the operating hours of the facility served.

Advisory R204.4 Pedestrian Overpasses and Underpasses. Where an overpass, underpass, bridge, or similar structure is designed for both pedestrian and vehicle use and the pedestrian access route is contained within the street or highway right-of-way, the grade of the pedestrian access route must not exceed the general grade established for the adjacent street or highway (see R302.5). Where the pedestrian access route is not contained within the street or highway right-of-way, the grade of the pedestrian access route must be 5 percent maximum (see R302.5). Where pedestrian overpasses or underpasses provide an alternative pedestrian circulation path to street level crossings, both the pedestrian overpass or underpass and the street level crossing must contain a pedestrian access route. State and local governments can provide a ramp, elevator, or lift at overpasses and underpasses designed for pedestrian use only. Long ramps present difficulties for some pedestrians with disabilities and can require snow clearance. Elevators or lifts can require maintenance.

R205 Alternate Pedestrian Access Routes. When a pedestrian circulation path is temporarily closed by construction, alterations, maintenance operations, or other conditions, an alternate pedestrian access route complying with sections 6D.01, 6D.02, and 6G.05 of the MUTCD (incorporated by reference, see R104.2) shall be provided. Where provided, pedestrian barricades and channelizing devices shall comply with sections 6F.63, 6F.68, and 6F.71 of the MUTCD (incorporated by reference, see R104.2).

Advisory R205 Alternate Pedestrian Access Routes. Section 6G.05 of the MUTCD recommends that whenever possible work should be done in a manner that does not create a need to detour pedestrians from existing pedestrian routes. Extra distance and additional pedestrian street crossings add complexity to a trip and increase exposure of risk to accidents. Sections 6D.01 and 6G.05 of the MUTCD require alternate pedestrian routes to be accessible and detectable, including warning pedestrians who are blind or have low vision about sidewalk closures. Proximity-actuated audible signs are a preferred means to warn pedestrians who are blind or have low vision about sidewalk closures.

R206 Pedestrian Street Crossings. Pedestrian street crossings shall comply with R306.

Advisory R206 Pedestrian Street Crossings. All pedestrian street crossings must be accessible to pedestrians with disabilities. If pedestrian crossing is prohibited at certain locations, "No Pedestrian Crossing" signs should be provided along with detectable features, such as grass strips, landscaping, planters, chains, fencing, railings, or other barriers.

R207 Curb Ramps and Blended Transitions

R207.1 General. A curb ramp, blended transition, or a combination of curb ramps and blended transitions complying with R304 shall connect the pedestrian access routes at each pedestrian street

crossing. The curb ramp (excluding any flared sides) or blended transition shall be contained wholly within the width of the pedestrian street crossing served.

R207.2 Alterations. In alterations where existing physical constraints prevent compliance with R207.1, a single diagonal curb ramp shall be permitted to serve both pedestrian street crossings.

R208 Detectable Warning Surfaces

R208.1 Where Required. Detectable warning surfaces complying with R305 shall be provided at the following locations on pedestrian access routes and at transit stops:

1. Curb ramps and blended transitions at pedestrian street crossings;
2. Pedestrian refuge islands;
3. Pedestrian at-grade rail crossings not located within a street or highway;
4. Boarding platforms at transit stops for buses and rail vehicles where the edges of the boarding platform are not protected by screens or guards; and
5. Boarding and alighting areas at sidewalk or street level transit stops for rail vehicles where the side of the boarding and alighting areas facing the rail vehicles is not protected by screens or guards.

Advisory R208.1 Where Required. On pedestrian access routes, detectable warning surfaces indicate the boundary between pedestrian and vehicular routes where there is a flush rather than a curbed connection. Detectable warning surfaces should not be provided at crossings of residential driveways since the pedestrian right-of-way continues across residential driveway aprons. However, where commercial driveways are provided with yield or stop control, detectable warning surfaces should be provided at the junction between the pedestrian route and the vehicular route. Where pedestrian at-grade rail crossings are located within a street or highway, detectable warning surfaces at the curb ramps or blended transitions make a second set of detectable warning surfaces at the rail crossing unnecessary.

Detectable warning surfaces are not intended to provide wayfinding for pedestrians who are blind or have low vision. Wayfinding can be made easier by:

- Sidewalks that provide a clear path free of street furniture;
- Visual contrast between walking and non-walking areas (e.g., planted borders);
- Route edges that are clear and detectable by cane;
- Direct pedestrian street crossings and curb ramps that are in-line with direction of travel;
- Small corner radiuses that permit pedestrian street crossings to be as short and direct as possible;
- Orthogonal intersections that facilitate navigation using parallel and perpendicular vehicle sound cues;
- and barriers where pedestrian travel or crossing is not permitted.

R208.2 Where Not Required. Detectable warning surfaces are not required at pedestrian refuge islands that are cut-through at street level and are less than 1.8 meters (6.0 ft) in length in the direction of pedestrian travel.

Advisory R208.2 Where Not Required. Detectable warning surfaces are not required at cut-through pedestrian refuge islands that are less than 1.8 meters (6.0 ft) in length because detectable warning surfaces must extend 610 millimeters (2.0 ft) minimum on each side of the island and be separated by 610 millimeters (2.0 ft) minimum length of island without detectable warning surfaces (see R305.1.4 and R305.2.4). Installing detectable warning surfaces at cut-through pedestrian islands that are less than 1.8 meters (6.0 ft) in length would compromise the effectiveness of detectable warning surfaces. Where a cut-through pedestrian refuge island is less than 1.8 m (6.0 ft) in length and the pedestrian street crossing is signalized, the signal should be timed for a complete crossing of the street.

R209 Accessible Pedestrian Signals and Pedestrian Pushbuttons

R209.1 General. Where pedestrian signals are provided at pedestrian street crossings, they shall include accessible pedestrian signals and pedestrian pushbuttons complying with sections 4E.08 through 4E.13 of the MUTCD (incorporated by reference, see R104.2). Operable parts shall comply with R403.

Advisory R209 Accessible Pedestrian Signals and Pedestrian Pushbuttons. An accessible pedestrian signal and pedestrian pushbutton is an integrated device that communicates information about the WALK and DON'T WALK intervals at signalized intersections in non-visual formats (i.e., audible tones and vibrotactile surfaces) to pedestrians who are blind or have low vision.

R209.2 Alterations. Existing pedestrian signals shall comply with R209.1 when the signal controller and software are altered, or the signal head is replaced.

R210 Protruding Objects. Objects along or overhanging any portion of a pedestrian circulation path shall comply with R402 and shall not reduce the clear width required for pedestrian access routes.

Advisory R210 Protruding Objects. Protruding objects can be hazardous for pedestrians, especially pedestrians who are blind or have low vision. The requirements for protruding objects in R402 apply across the entire width of the pedestrian circulation path, not just the pedestrian access route. In addition, objects must not reduce the clear width required for pedestrian access routes. State and local governments must comply with the requirements for protruding objects and maintain the clear width of pedestrian access routes when installing or permitting the installation of street furniture on sidewalks, including street lights, utility poles and equipment cabinets, sign posts and signs, parking meters, trash receptacles, public telephones, mailboxes, newspaper vending machines, benches, transit shelters, kiosks, bicycle racks, planters and planted trees, and street sculptures. The American Association of State Highway and Transportation Officials (AASHTO) recommends that local governments use an encroachment permit process to regulate the use of sidewalks by private entities for activities such as outdoor dining, vending carts and stands, and street fairs in order to control protruding objects and maintain the clear width of pedestrian access routes. See AASHTO, Guide for the Planning, Design, and Operation of Pedestrian Facilities (2004), section 3.2.3.

R211 Signs

R211.1 General. Signs shall comply with R211. Where audible sign systems and other technologies are used to provide information equivalent to the information contained on pedestrian signs and transit signs, the signs are not required to comply with R211.2 and R211.3.

Advisory R211.1 General. Audible sign systems and other technologies that provide information equivalent to the information contained on signs are more usable by pedestrians who are blind or have low vision. Remote infrared audible signs that transmit information to portable devices that are carried by and audible only to the user are an example of audible sign systems and other technologies.

R211.2 Pedestrian Signs. Signs, other than transit signs, that provide directions, warnings, or other information for pedestrians only shall comply with R410.

Advisory R211.2 Pedestrian Signs. Pedestrian route signs along an historic trail, sidewalk closure and pedestrian detour signs, and tourist information signs are examples of signs that provide directions, warnings, or other information for pedestrians only. Signs provided for motorists and pedestrians such as highway and street name signs are not required to comply with R410.

R211.3 Transit Signs. Signs that identify the routes served by transit stops shall comply with R410.

Advisory R211.3 Transit Signs. Transit schedules, timetables, and maps are not required to comply with R410.

R211.4 Accessible Parking Space and Passenger Loading Zone Signs. Accessible parking spaces and accessible passenger loading zones shall be identified by signs displaying the International Symbol

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of Accessibility complying with R411. At accessible parallel parking spaces and accessible passenger loading zones, the signs shall be located at the head or foot of the parking space or passenger loading zone.

R212 Street Furniture

R212.1 General. Where provided, street furniture shall comply with the applicable requirements in R212.

R212.2 Drinking Fountains. Drinking fountains shall comply with sections 602.1 through 602.6 of Appendix D to 36 CFR part 1191.

R212.3 Public Toilet Facilities. Public toilet facilities shall comply with sections 206.2.4 and 603 of Appendix D to 36 CFR part 1191. At least one fixture of each type provided shall comply with sections 604 through 610 of Appendix D to 36 CFR part 1191. Where multiple single-user public toilet facilities are clustered at a single location, at least 5 percent, but no less than one, of single-user toilets at each cluster shall comply with R212.3 and shall be identified by the International Symbol of Accessibility complying with R411.

R212.4 Tables. At least 5 percent, but no less than one, of tables at each location shall comply with section 902 of Appendix D to 36 CFR part 1191.

R212.5 Counters. Counters shall comply with section 904 of Appendix D to 36 CFR part 1191.

R212.6 Benches. At least 50 percent, but no less than one, of benches at each location shall provide clear space complying with R404 adjacent to the bench. The clear space shall be located either at one end of the bench or shall not overlap the area within 460 mm (1.5 ft) from the front edge of the bench. Benches at tables are not required to comply.

Advisory R212.6 Benches. Benches that provide full back support and armrests to assist in sitting and standing are more usable by pedestrians with disabilities.

R213 Transit Stops and Transit Shelters. Where provided, transit stops and transit shelters shall comply with R308.

Advisory R213 Transit Stops and Transit Shelters. Transit stops in the public right-of-way typically serve fixed route bus systems, including bus rapid transit systems, and light rail transit systems. Signs that identify the routes served by the transit stop must comply with the technical requirements for visual characters on signs unless audible sign systems or other technologies are used to provide the information (see R211 and R410). The Federal Highway Administration (FHWA) has issued guidance on the obligations of state transportation departments, metropolitan planning organizations, and transit agencies to coordinate the planning and funding of accessibility improvements to transit systems and facilities. The guidance is available at FHWA's website:
http://www.fhwa.dot.gov/civilrights/memos/ada_memo_clarificationa.htm.

R214 On-Street Parking Spaces. Where on-street parking is provided on the block perimeter and the parking is marked or metered, accessible parking spaces complying with R309 shall be provided in accordance with Table R214. Where parking pay stations are provided and the parking is not marked, each 6.1 m (20.0 ft) of block perimeter where parking is permitted shall be counted as one parking space.

Table R214 On-Street Parking Spaces

| Total Number of Marked or Metered Parking Spaces on the Block Perimeter | Minimum Required Number of Accessible Parking Spaces |
|---|--|
| 1 to 25 | 1 |
| 26 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| 201 and over | 4 percent of total |

Advisory R214 On-Street Parking Spaces. The MUTCD contains provisions for marking on-street parking spaces (see section 3B.19). Metered parking includes parking metered by parking pay stations. Where parking on part of the block perimeter is altered, the minimum number of accessible parking spaces required is based on the total number of marked or metered parking spaces on the block perimeter.

R215 Passenger Loading Zones. Where passenger loading zones other than transit stops are provided, at least one accessible passenger loading zone complying with R310 shall be provided for each 30 m (100.0 ft) of continuous loading zone space or fraction thereof.

R216 Stairways and Escalators. Where provided on pedestrian circulation paths, stairways shall comply with R408 and escalators shall comply with section 810.9 of Appendix D to 36 CFR part 1191. Stairways and escalators shall not be part of a pedestrian access route.

R217 Handrails. Where provided on pedestrian circulation paths, handrails shall comply with R409.

R218 Doors, Doorways, and Gates. Where provided at pedestrian facilities, doors, doorways, and gates shall comply with section 404 of Appendix D to 36 CFR part 1191.

Advisory R218 Doors, Doorways, and Gates. Enclosed transit shelters are an example of pedestrian facilities where doors and doorways are provided.

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CHAPTER R3: TECHNICAL REQUIREMENTS

R301 General

R301.1 Scope. The technical requirements in Chapter 3 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

R302 Pedestrian Access Routes

R302.1 General. Pedestrian access routes shall comply with R302.

R302.2 Components. Pedestrian access routes shall consist of one or more of the following components:

1. Sidewalks and other pedestrian circulation paths, or a portion of sidewalks and other pedestrian circulation paths, complying with R302.3 through R302.7;
2. Pedestrian street crossings and at-grade rail crossings complying with R302.3 through R302.7, and R306;
3. Pedestrian overpasses and underpasses and similar structures complying with R302.3 through R302.7;
4. Curb ramps and blended transitions complying with R302.7 and R304;
5. Ramps complying with R407;
6. Elevators and limited use/limited application elevators complying with sections 407 or 408 of Appendix D to 36 CFR part 1191;
7. Platform lifts complying with section 410 of Appendix D to 36 CFR part 1191; and
8. Doors, doorways, and gates complying with section 404 of Appendix D to 36 CFR part 1191.

Advisory R302.2 Components. The technical requirement for elevators, limited use/limited application elevators, platform lifts, and doors, doorways, and gates are contained in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities and the Architectural Barriers Act Accessibility Guidelines (36 CFR part 1191).

R302.3 Continuous Width. Except as provided in R302.3.1, the continuous clear width of pedestrian access routes shall be 1.2 m (4.0 ft) minimum, exclusive of the width of the curb.

Advisory R302.3 Continuous Width. The continuous clear width requirements in R302.3 apply to sidewalks and other pedestrian circulation paths, pedestrian street crossings and at-grade rail crossings, and pedestrian overpasses and underpasses and similar structures (see R302.2). Clear width requirements are contained in R304.5.1 for curb ramps and blended transitions, and in R407.4 for ramps. Where sidewalks are wider than 1.2 m (4.0 ft), only a portion of the sidewalk is required to comply with the requirements in R302.3 through R302.7. Additional maneuvering space should be provided at turns or changes in direction, transit stops, recesses and alcoves, building entrances, and along curved or angled routes, particularly where the grade exceeds 5 percent. R210 prohibits street furniture and other objects from reducing the minimum clear width of pedestrian access routes.

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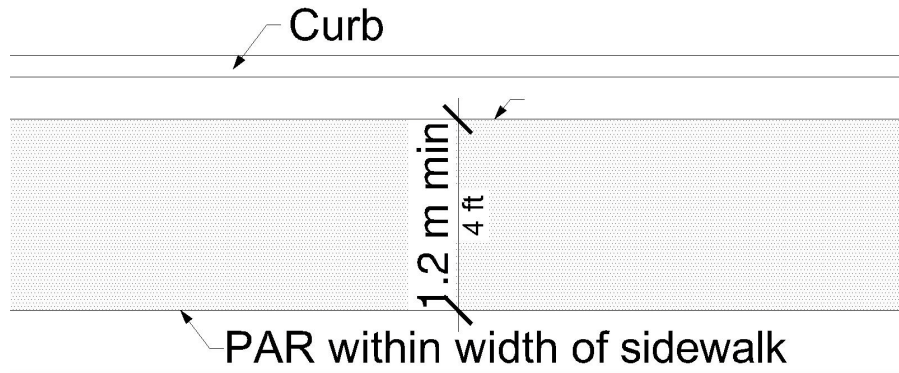


Figure R302.3
Continuous Width

R302.3.1 Medians and Pedestrian Refuge Islands. The clear width of pedestrian access routes within medians and pedestrian refuge islands shall be 1.5 m (5.0 ft) minimum.

R302.4 Passing Spaces. Where the clear width of pedestrian access routes is less than 1.5 m (5.0 ft), passing spaces shall be provided at intervals of 61 m (200.0 ft) maximum. Passing spaces shall be 1.5 m (5.0 ft) minimum by 1.5 m (5.0 ft) minimum. Passing spaces are permitted to overlap pedestrian access routes.

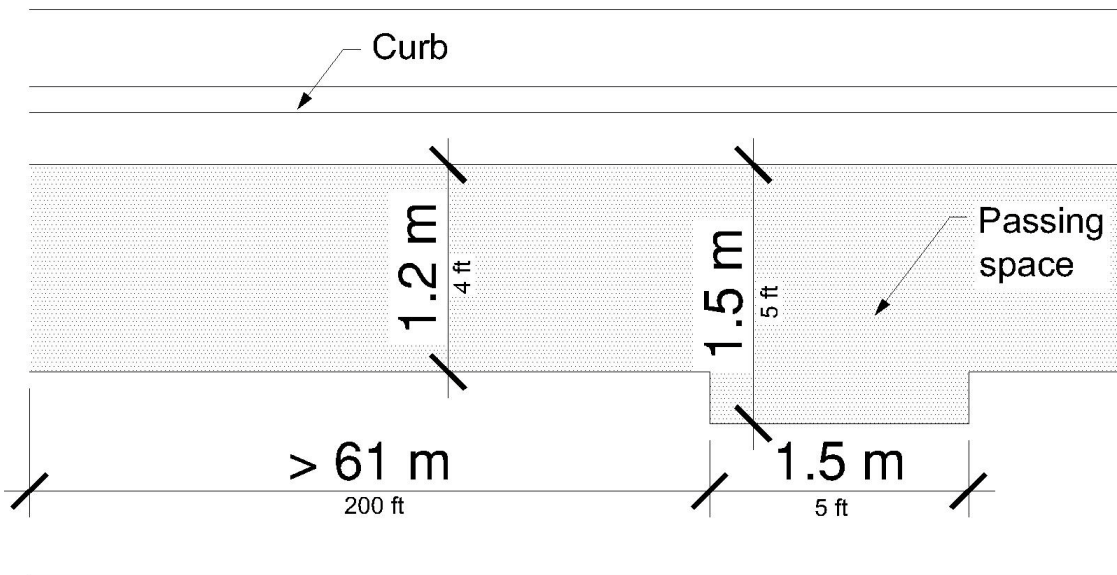


Figure R302.4
Passing Spaces

R302.5 Grade. Except as provided in R302.5.1, where pedestrian access routes are contained within a street or highway right-of-way, the grade of pedestrian access routes shall not exceed the general grade established for the adjacent street or highway. Where pedestrian access routes are not contained within a street or highway right-of-way, the grade of pedestrian access routes shall be 5 percent maximum.

Advisory R302.5 Grade. The grade requirements in R302.5 apply to sidewalks and other pedestrian circulation paths, pedestrian street crossings and at-grade rail crossings, and pedestrian overpasses and underpasses and similar structures (see R302.2). The grade of the pedestrian access route is measured parallel to the direction of pedestrian travel. Running slope requirements are contained in R304.2.2 for perpendicular curb ramps, in R304.3.2 for parallel curb ramps, in R304.4.1 for blended transitions, and in R407.2 for ramps.

R302.5.1 Pedestrian Street Crossings. Where pedestrian access routes are contained within pedestrian street crossings, the grade of the pedestrian access route shall be 5 percent maximum.

R302.6 Cross Slope. Except as provided in R302.6.1 and R302.6.2, the cross slope of pedestrian access routes shall be 2 percent maximum.

Advisory R302.6 Cross Slope. The cross slope requirements in R302.6 apply to sidewalks and other pedestrian circulation paths, pedestrian street crossings and at-grade rail crossings, and pedestrian overpasses and underpasses and similar structures (see R302.2). The cross slope of the pedestrian access route is measured perpendicular to the direction of pedestrian travel. Cross slope requirements are contained in R304.5.3 for curb ramps and blended transitions, and in R407.3 for ramps.

R302.6.1 Pedestrian Street Crossings Without Yield or Stop Control. Where pedestrian access routes are contained within pedestrian street crossings without yield or stop control, the cross slope of the pedestrian access route shall be 5 percent maximum.

Advisory R302.6.1 Pedestrian Street Crossings Without Yield or Stop Control. Pedestrian street crossings without yield or stop control are crossings where there is no yield or stop sign, or where there is a traffic signal that is designed for the green phase. At pedestrian street crossings without yield or stop control, vehicles can proceed through the intersection without slowing or stopping. Where pedestrian access routes are contained within pedestrian street crossings with yield or stop control, the cross slope of the pedestrian access route must be 2 percent maximum (see R302.6). At pedestrian street crossings with yield or stop control, vehicles slow or stop before proceeding through the intersection.

R302.6.2 Midblock Pedestrian Street Crossings. Where pedestrian access routes are contained within midblock pedestrian street crossings, the cross slope of the pedestrian access route shall be permitted to equal the street or highway grade.

R302.7 Surfaces. The surfaces of pedestrian access routes and elements and spaces required to comply with R302.7 that connect to pedestrian access routes shall be firm, stable, and slip resistant and shall comply with R302.7.

Advisory R302.7 Surfaces. The surface requirements in R302.7 apply to sidewalks and other pedestrian circulation paths, pedestrian street crossings and at-grade rail crossings, pedestrian overpasses and underpasses and similar structures, and curb ramps and blended transitions (see R302.2). The surface requirements in R302.7 also apply to surfaces at the following accessible elements and spaces that connect to pedestrian access routes:

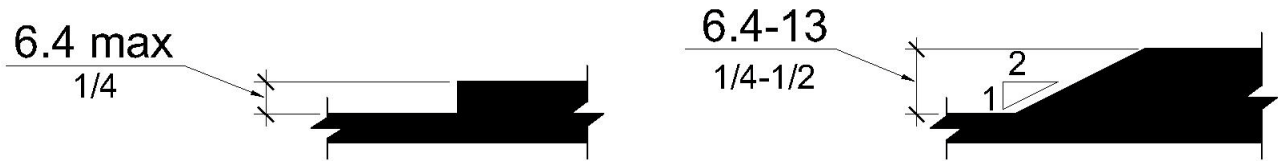
- Clear spaces (see R404.2), including clear spaces at operable parts (see R403.2) such as accessible pedestrian signals and pedestrian pushbuttons (see R209), clear spaces at street furniture such as benches (see R212.6), and clear spaces within transit shelters (see R308.2);
- Boarding and alighting areas and boarding platforms at transit stops (see R308.1.3.1);
- Access aisles at accessible parking spaces (see R309.2.1 and R309.3) and accessible passenger loading zones (see R310.3.4); and ramp runs and landings (see R407.7).

R302.7.1 Vertical Alignment. Vertical alignment shall be generally planar within pedestrian access routes (including curb ramp runs, blended transitions, turning spaces, and gutter areas within pedestrian access routes) and surfaces at other elements and spaces required to comply with R302.7 that connect to pedestrian access routes. Grade breaks shall be flush. Where pedestrian access routes cross rails at grade, the pedestrian access route surface shall be level and flush with the top of rail at the outer edges of the rails, and the surface between the rails shall be aligned with the top of rail.

Advisory R302.7.1 Vertical Alignment. Pedestrian access route surfaces must be generally planar and smooth. Surfaces should be chosen for easy rollability. Surfaces that are heavily textured, rough, or chamfered and paving systems consisting of individual units that cannot be laid in plane will greatly increase rolling resistance and subject pedestrians who use wheelchairs, scooters, and rolling walkers to the stressful and often painful effects of vibration. Such materials should be reserved for borders and decorative accents located outside of or only occasionally crossing the pedestrian access route. Surfaces should be designed, constructed, and maintained according to appropriate industry standards, specifications, and recommendations for best practice.

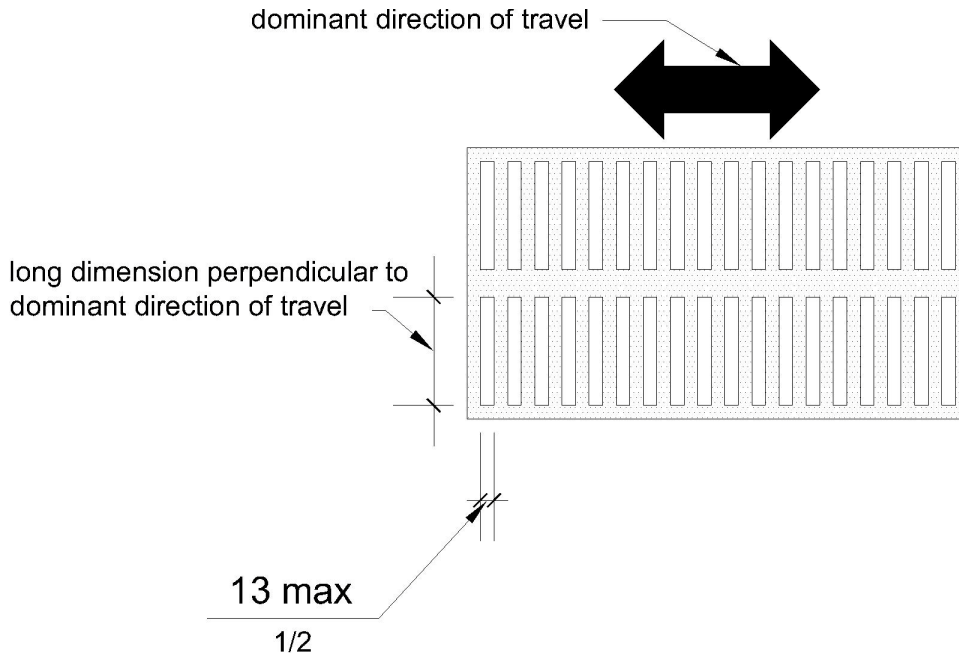
R302.7.2 Vertical Surface Discontinuities. Vertical surface discontinuities shall be 13 mm (0.5 in) maximum. Vertical surface discontinuities between 6.4 mm (0.25 in) and 13 mm (0.5 in) shall be beveled with a slope not steeper than 50 percent. The bevel shall be applied across the entire vertical surface discontinuity.

Advisory R302.7.2 Vertical Surface Discontinuities. The allowance for vertical surface discontinuities is for occasional expansion joints and objects such as utility covers, vault frames, and gratings that cannot be located in another portion of the sidewalk outside the pedestrian access route. However, objects such as utility covers, vault frames, and gratings should not be located on curb ramp runs, blended transitions, turning spaces, or gutter areas within the pedestrian access route. This may not always be possible in alterations, but should be avoided wherever possible. Vertical surface discontinuities between unit pavers should be minimized.



**Figure R302.7.2
Vertical Surface Discontinuities**

R302.7.3 Horizontal Openings. Horizontal openings in gratings and joints shall not permit passage of a sphere more than 13 mm (0.5 in) in diameter. Elongated openings in gratings shall be placed so that the long dimension is perpendicular to the dominant direction of travel.



**Figure R302.7.3
Horizontal Openings**

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R302.7.4 Flangeway Gaps. Flangeway gaps at pedestrian at-grade rail crossings shall be 64 mm (2.5 in) maximum on non-freight rail track and 75 mm (3 in) maximum on freight rail track.

Advisory R302.7.4 Flangeway Gaps. Flangeway gaps are necessary to allow the passage of train wheel flanges. Flangeway gaps pose a potential hazard to pedestrians who use wheelchairs because the gaps can entrap the wheelchair casters.

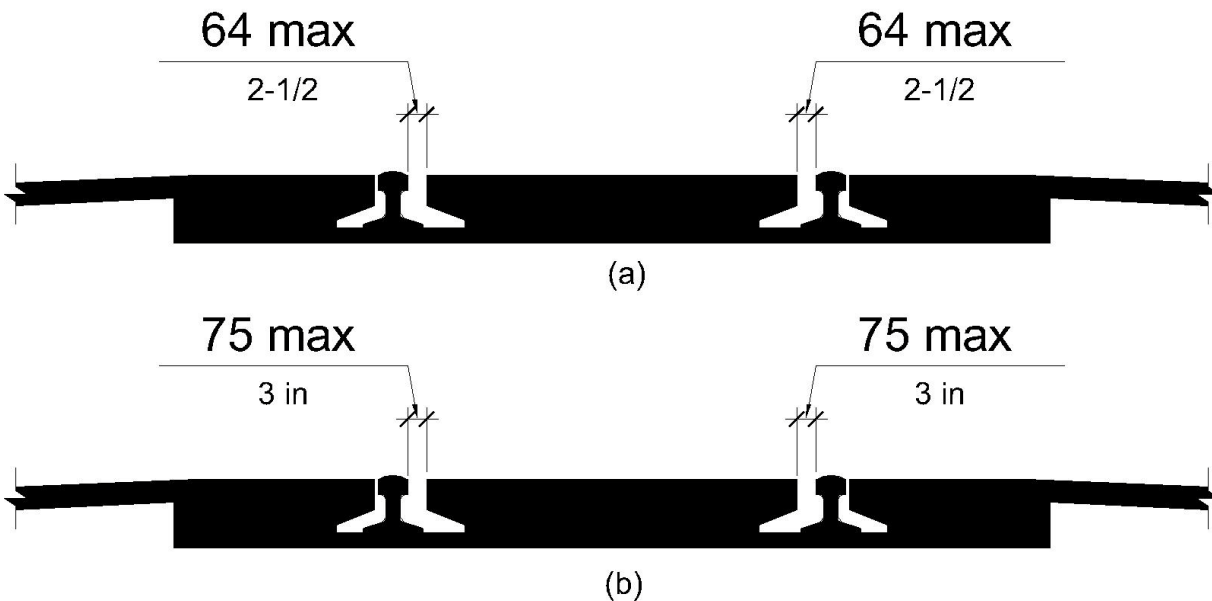


Figure R302.7.4
Flangeway Gaps

R303 Alternate Pedestrian Access Routes (See R205)

R304 Curb Ramps and Blended Transitions

R304.1 General. Curb ramps and blended transitions shall comply with R304.

Advisory R304.1 General. There are two types of curb ramps:

- Perpendicular curb ramps have a running slope that cuts through or is built up to the curb at right angles or meets the gutter break at right angles where the curb is curved. On large corner radiuses, it will be necessary to indent the gutter break on one side of the curb ramp in order for the curb ramp to meet the gutter break at right angles.
- Parallel curb ramps have a running slope that is in-line with the direction of sidewalk travel and lower the sidewalk to a level turning space where a turn is made to enter the pedestrian street crossing.

Advisory R304.1 General (continued). Perpendicular curb ramps can be provided where the sidewalk is at least 3.7 m (12.0 ft) wide. Parallel curb ramps can be provided where the sidewalk is at least 1.2 m (4.0 ft) wide. Parallel and perpendicular curb ramps can be combined. A parallel curb ramp is used to lower the sidewalk to a mid-landing and a short perpendicular curb ramp connects the landing to the street. Combination curb ramps can be provided where the sidewalk is at least 1.8 m (6.0 ft) wide.

Blended transitions are raised pedestrian street crossings, depressed corners, or similar connections between pedestrian access routes at the level of the sidewalk and the level of the pedestrian street crossing that have a grade of 5 percent or less. Blended transitions are suitable for a range of sidewalk conditions.

R304.2 Perpendicular Curb Ramps. Perpendicular curb ramps shall comply with R304.2 and R304.5.

R304.2.1 Turning Space. A turning space 1.2 m (4.0 ft) minimum by 1.2 m (4.0 ft) minimum shall be provided at the top of the curb ramp and shall be permitted to overlap other turning spaces and clear spaces. Where the turning space is constrained at the back-of-sidewalk, the turning space shall be 1.2 m (4.0 ft) minimum by 1.5 m (5.0 ft) minimum. The 1.5 m (5.0 ft) dimension shall be provided in the direction of the ramp run.

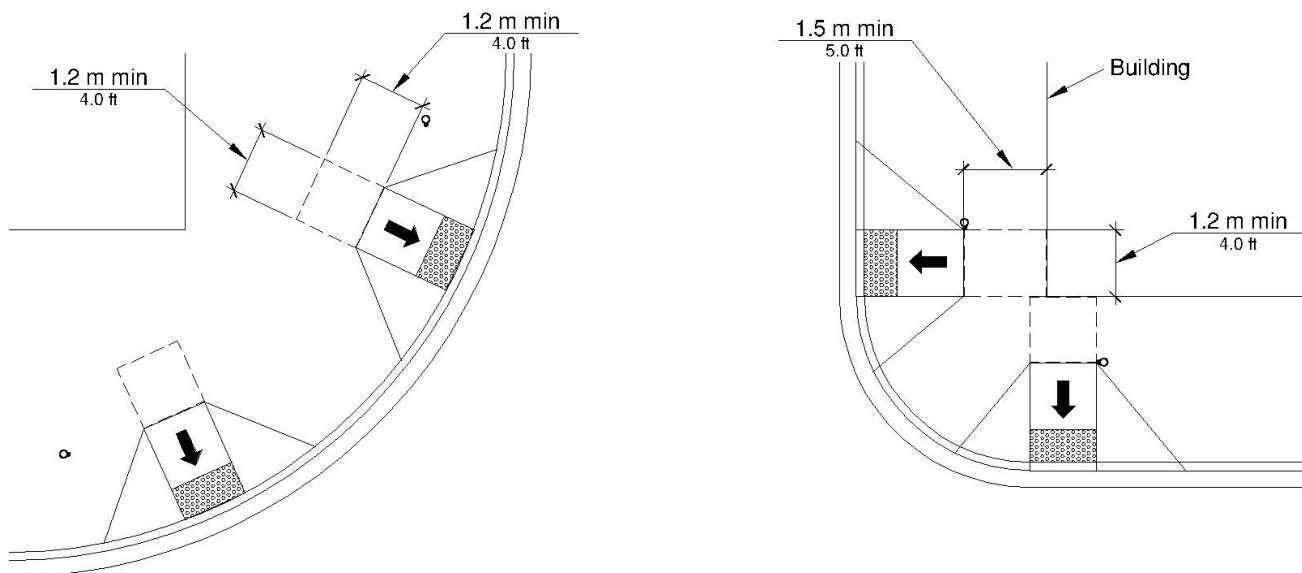


Figure R304.2.1
Turning Space

R304.2.2 Running Slope. The running slope of the curb ramp shall cut through or shall be built up to the curb at right angles or shall meet the gutter grade break at right angles where the curb is curved. The running slope of the curb ramp shall be 5 percent minimum and 8.3 percent maximum but shall not require the ramp length to exceed 4.5 m (15.0 ft). The running slope of the turning space shall be 2 percent maximum.

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R304.2.3 Flared Sides. Where a pedestrian circulation path crosses the curb ramp, flared sides shall be sloped 10 percent maximum, measured parallel to the curb line.

Advisory R304.2.3 Flared Sides. The flared sides are part of the pedestrian circulation path, but are not part of the pedestrian access route. Curb ramps whose sides have returned curbs provide useful directional cues where they are aligned with the pedestrian street crossing and are protected from cross travel by landscaping, street furniture, chains, fencing, or railings.

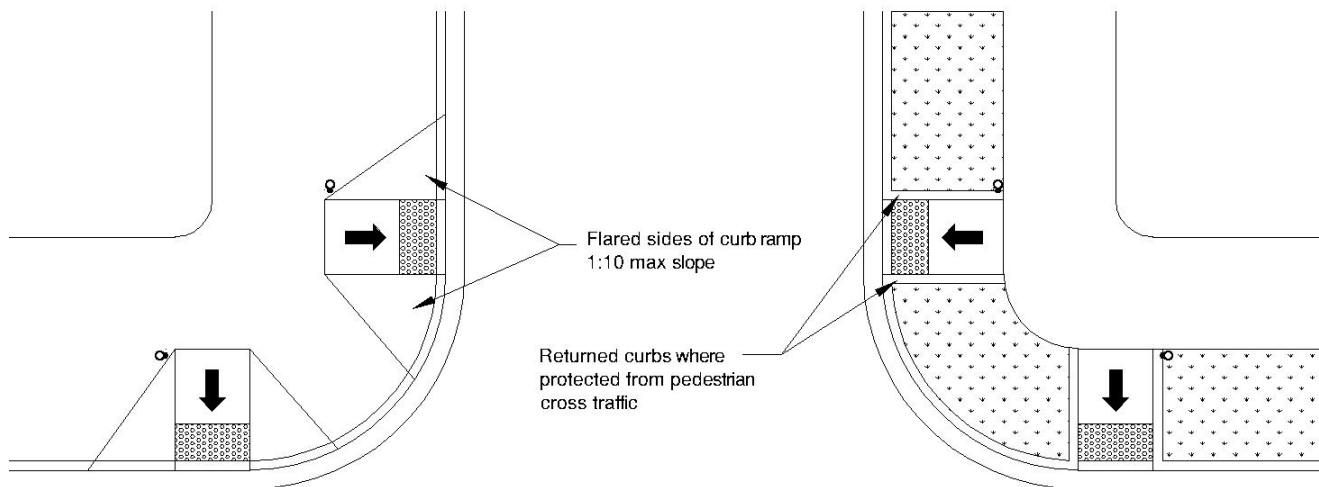


Figure R304.2.3
Flared Sides

R304.3 Parallel Curb Ramps. Parallel curb ramps shall comply with R304.3 and R304.5.

R304.3.1 Turning Space. A turning space 1.2 m (4.0 ft) minimum by 1.2 m (4.0 ft) minimum shall be provided at the bottom of the curb ramp and shall be permitted to overlap other turning spaces and clear spaces. If the turning space is constrained on 2 or more sides, the turning space shall be 1.2 m (4.0 ft) minimum by 1.5 m (5.0 ft). The 1.5 m (5.0 ft) dimension shall be provided in the direction of the pedestrian street crossing.

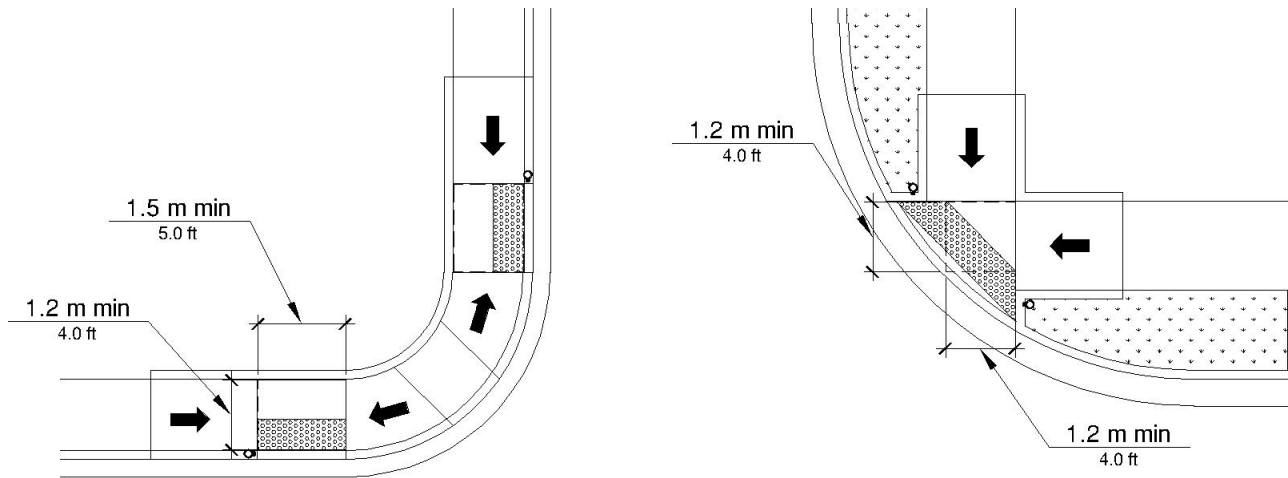


Figure R304.3.1
Turning Space

R304.3.2 Running Slope. The running slope of the curb ramp shall be in-line with the direction of sidewalk travel. The running slope of the curb ramp shall be 5 percent minimum and 8.3 percent maximum but shall not require the ramp length to exceed 4.5 m (15.0 ft) minimum. The running slope of the turning space shall be 2 percent maximum.

R304.4 Blended Transitions. Blended transitions shall comply with R304.4 and R304.5.

R304.4.1 Running Slope. The running slope of blended transitions shall be 5 percent maximum.

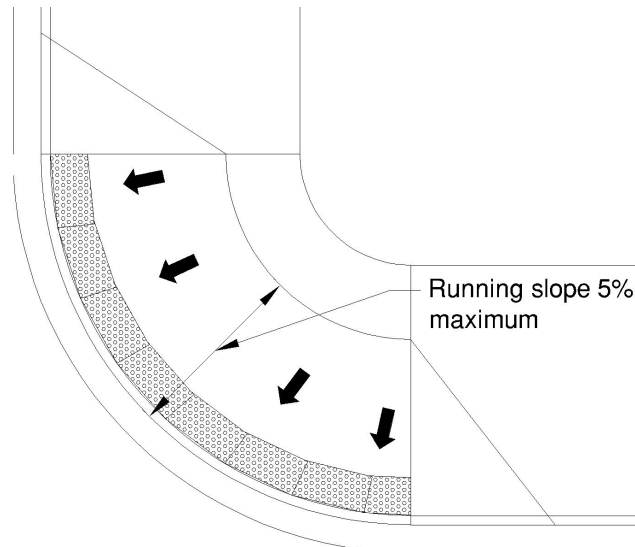


Figure R304.4.1
Running Slope

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R304.5 Common Requirements. Curb ramps and blended transitions shall comply with R304.5.

R304.5.1 Width. The clear width of curb ramp runs (excluding any flared sides), blended transitions, and turning spaces shall be 1.2 m (4.0 ft) minimum.

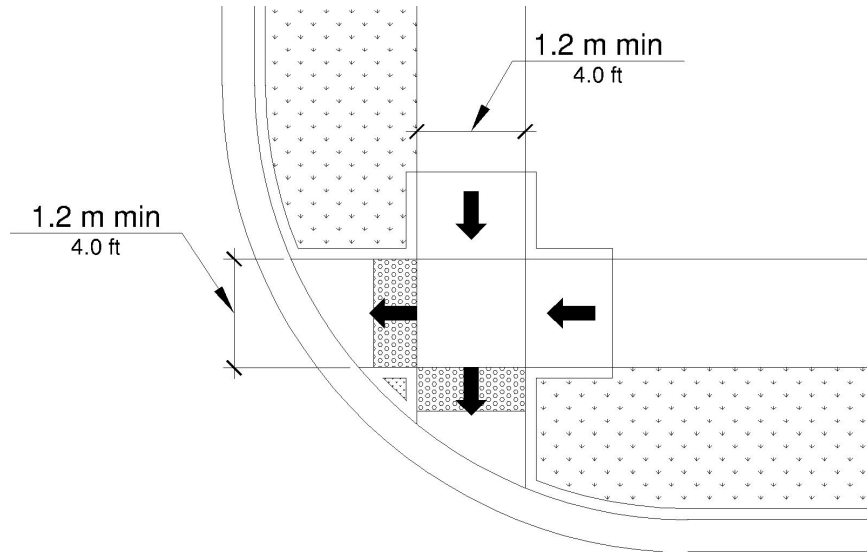


Figure R304.5.1
Width

R304.5.2 Grade Breaks. Grade breaks at the top and bottom of curb ramp runs shall be perpendicular to the direction of the ramp run. Grade breaks shall not be permitted on the surface of ramp runs and turning spaces. Surface slopes that meet at grade breaks shall be flush.

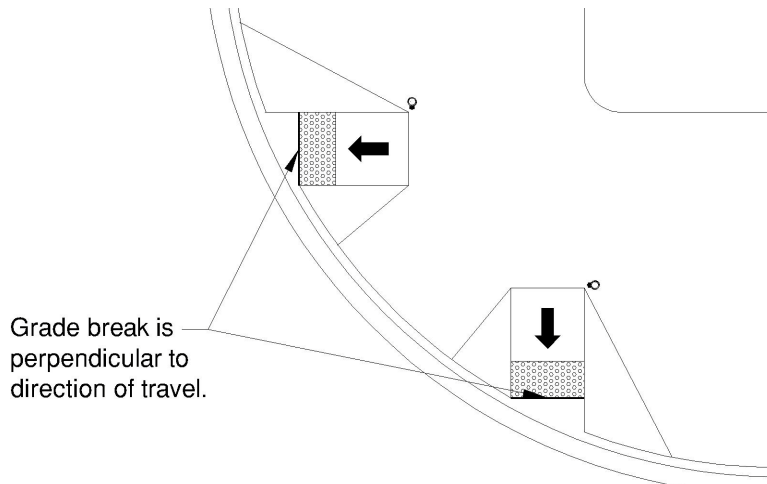


Figure R304.5.2
Grade Breaks

R304.5.3 Cross Slope. The cross slope of curb ramps, blended transitions, and turning spaces shall be 2 percent maximum. At pedestrian street crossings without yield or stop control and at midblock pedestrian street crossings, the cross slope shall be permitted to equal the street or highway grade.

Advisory R304.5.3 Cross Slope. Pedestrian street crossings without yield or stop control are crossings where there is no yield or stop sign, or where there is a traffic signal that is designed for the green phase. At pedestrian street crossings without yield or stop control, vehicles can proceed through the intersection without slowing or stopping.

R304.5.4 Counter Slope. The counter slope of the gutter or street at the foot of curb ramp runs, blended transitions, and turning spaces shall be 5 percent maximum.

R304.5.5 Clear Space. Beyond the bottom grade break, a clear space 1.2 m (4.0 ft) minimum by 1.2 m (4.0 ft) minimum shall be provided within the width of the pedestrian street crossing and wholly outside the parallel vehicle travel lane.

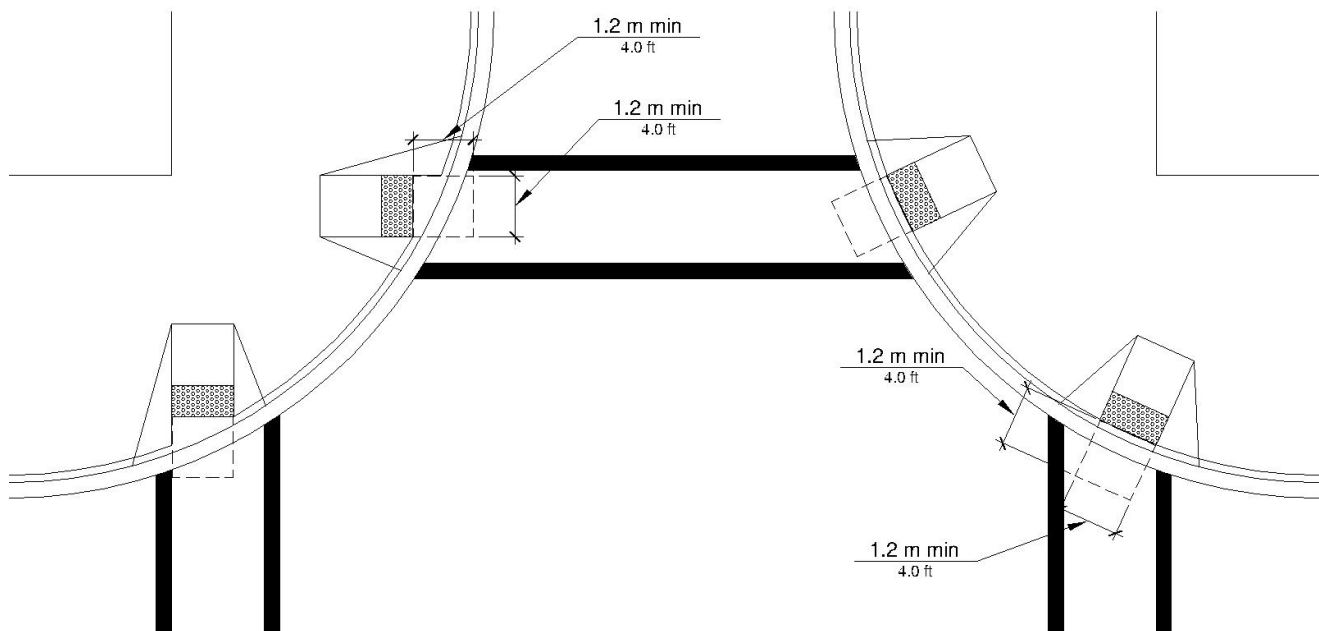


Figure R304.5.5
Clear Space

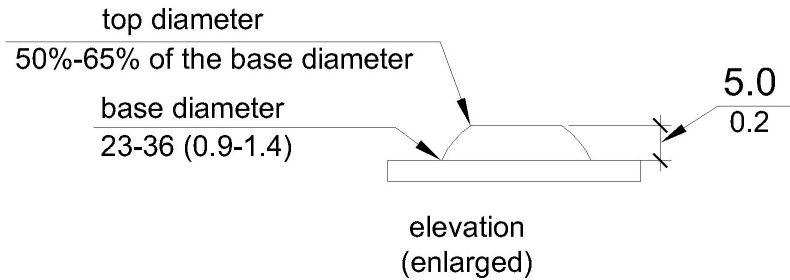
R305 Detectable Warning Surfaces

R305.1 General. Detectable warning surfaces shall consist of truncated domes aligned in a square or radial grid pattern and shall comply with R305.

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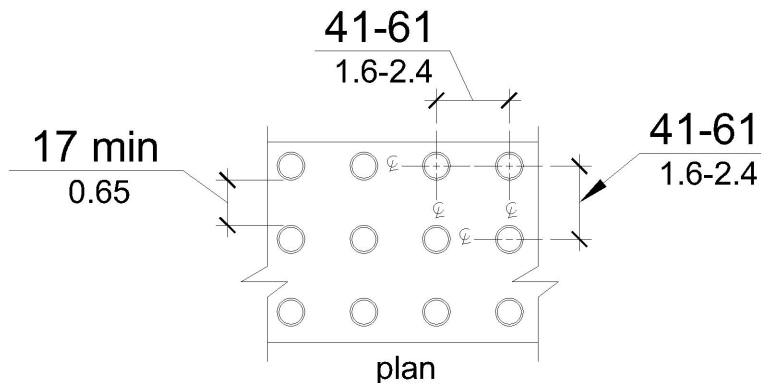
R305.1.1 Dome Size. The truncated domes shall have a base diameter of 23 mm (0.9 in) minimum and 36 mm (1.4 in) maximum, a top diameter of 50 percent of the base diameter minimum and 65 percent of the base diameter maximum, and a height of 5 mm (0.2 in).

Advisory R305.1.1 Dome Size. Where the truncated domes are arrayed radially, they may differ in diameter and center-to-center spacing within the ranges specified in R305.1.1 and R305.1.2.



**Figure R305.1.1
Dome Size**

R305.1.2 Dome Spacing. The truncated domes shall have a center-to-center spacing of 41 mm (1.6 in) minimum and 61 mm (2.4 in) maximum, and a base-to-base spacing of 17 mm (0.65 in) minimum, measured between the most adjacent domes.



**Figure R305.1.2
Dome Spacing**

R305.1.3 Contrast. Detectable warning surfaces shall contrast visually with adjacent gutter, street or highway, or pedestrian access route surface, either light-on-dark or dark-on-light.

Advisory R305.1.3 Contrast. Visual contrast may be provided on the full surface of the curb ramp but should not extend to flared sides. Visual contrast also helps pedestrians who use wheelchairs to locate the curb ramp from the other side of the street.

R305.1.4 Size. Detectable warning surfaces shall extend 610 mm (2.0 ft) minimum in the direction of pedestrian travel. At curb ramps and blended transitions, detectable warning surfaces shall extend the full width of the ramp run (excluding any flared sides), blended transition, or turning space. At pedestrian at-grade rail crossings not located within a street or highway, detectable warnings shall extend the full width of the crossing. At boarding platforms for buses and rail vehicles, detectable warning surfaces shall extend the full length of the public use areas of the platform. At boarding and alighting areas at sidewalk or street level transit stops for rail vehicles, detectable warning surfaces shall extend the full length of the transit stop.

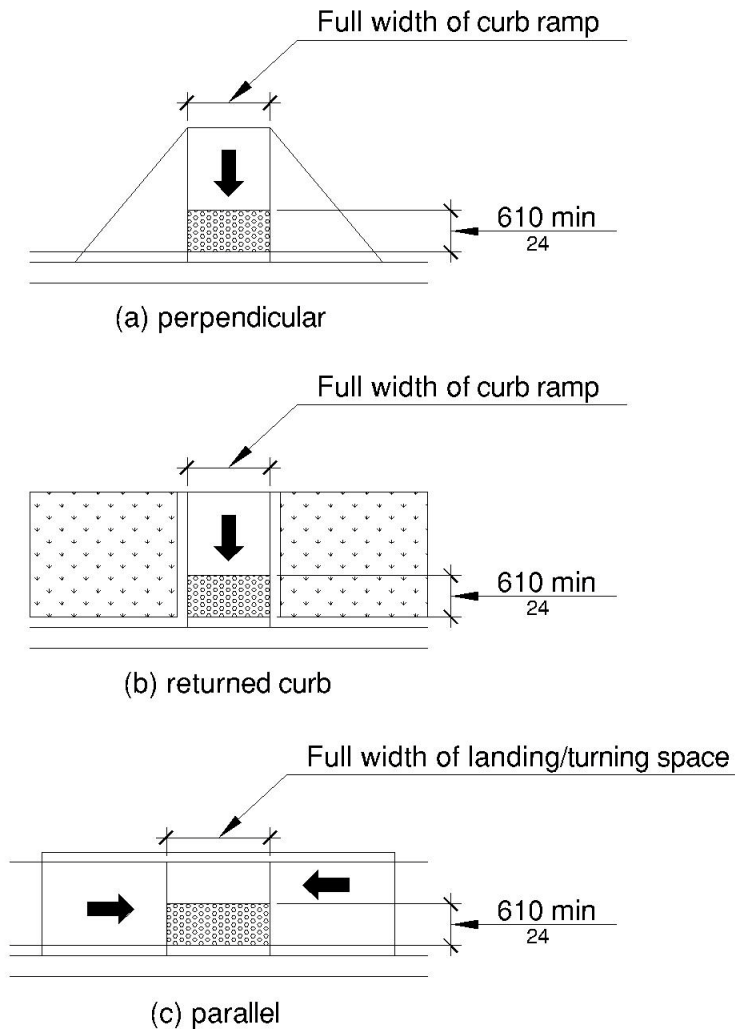


Figure R305.1.4
Size

R305.2 Placement. The placement of detectable warning surfaces shall comply with R305.2.

Advisory R305.2 Placement. Some detectable warning products require a concrete border for proper installation. The concrete border should not exceed 51 mm (2 in). Where the back of curb edge is tooled to provide a radius, the border dimension should be measured from the end of the radius.

R305.2.1 Perpendicular Curb Ramps. On perpendicular curb ramps, detectable warning surfaces shall be placed as follows:

1. Where the ends of the bottom grade break are in front of the back of curb, detectable warning surfaces shall be placed at the back of curb.
2. Where the ends of the bottom grade break are behind the back of curb and the distance from either end of the bottom grade brake to the back of curb is 1.5 m (5.0 ft) or less, detectable warning surfaces shall be placed on the ramp run within one dome spacing of the bottom grade break.
3. Where the ends of the bottom grade break are behind the back of curb and the distance from either end of the bottom grade brake to the back of curb is more than 1.5 m (5.0 ft), detectable warning surfaces shall be placed on the lower landing at the back of curb.

Advisory R305.2.1 Perpendicular Curb Ramps. Detectable warning surfaces are intended to provide a tactile equivalent underfoot of the visible curb line. If detectable warning surfaces are placed too far from the curb line because of a large curb radius, the location may compromise effective crossing. Detectable warning surfaces should not be placed on paving or expansion joints. The rows of truncated domes in detectable warning surfaces should be aligned perpendicular to the grade break between the ramp run and the street so pedestrians who use wheelchairs can "track" between the domes. Where detectable warning surfaces are provided on a surface with a slope that is less than 5 percent, dome orientation is less critical.

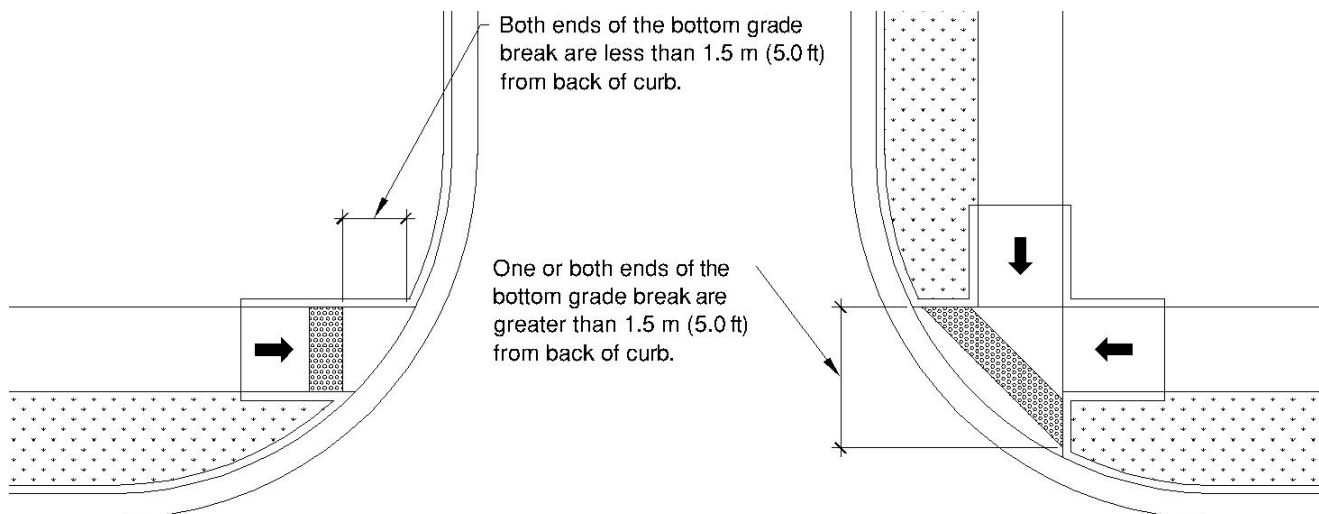
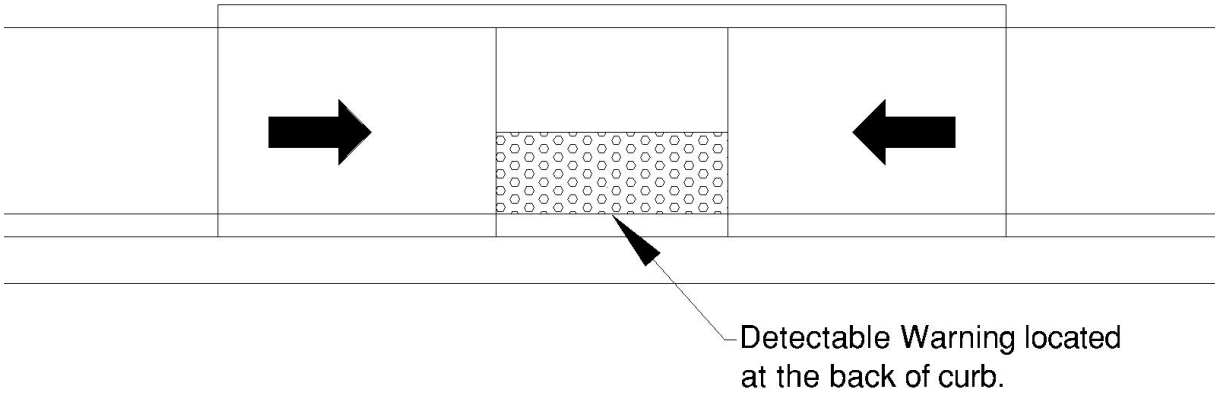


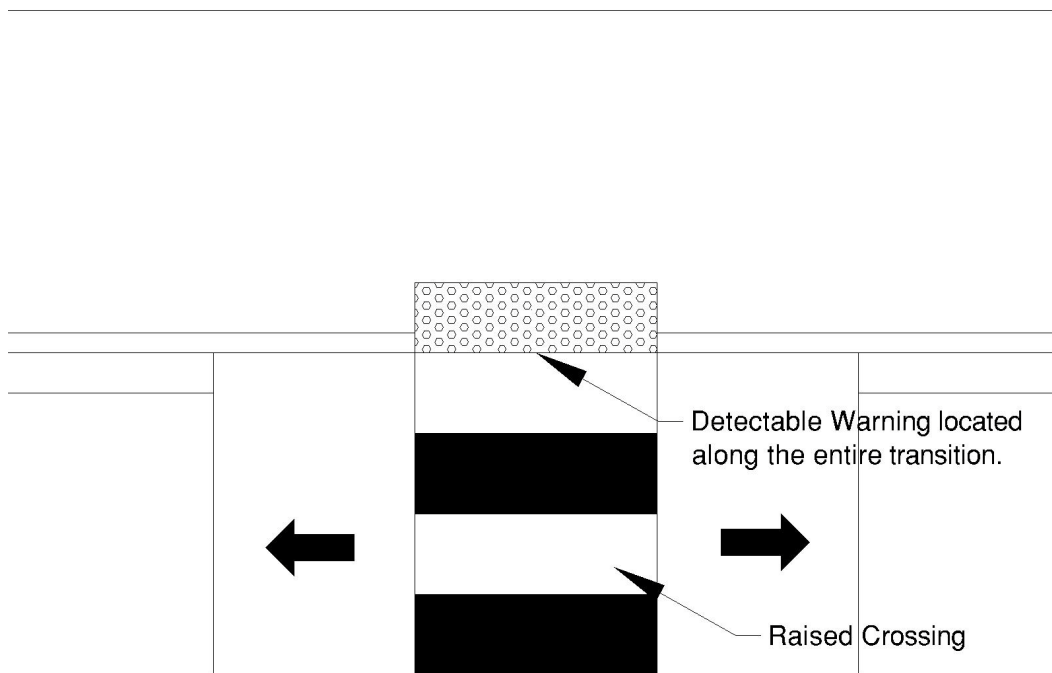
Figure R305.2.1
Perpendicular Curb Ramps

R305.2.2 Parallel Curb Ramps. On parallel curb ramps, detectable warning surfaces shall be placed on the turning space at the flush transition between the street and sidewalk.



**Figure R305.2.2
Parallel Curb Ramps**

R305.2.3 Blended Transitions. On blended transitions, detectable warning surfaces shall be placed at the back of curb. Where raised pedestrian street crossings, depressed corners, or other level pedestrian street crossings are provided, detectable warning surfaces shall be placed at the flush transition between the street and the sidewalk.

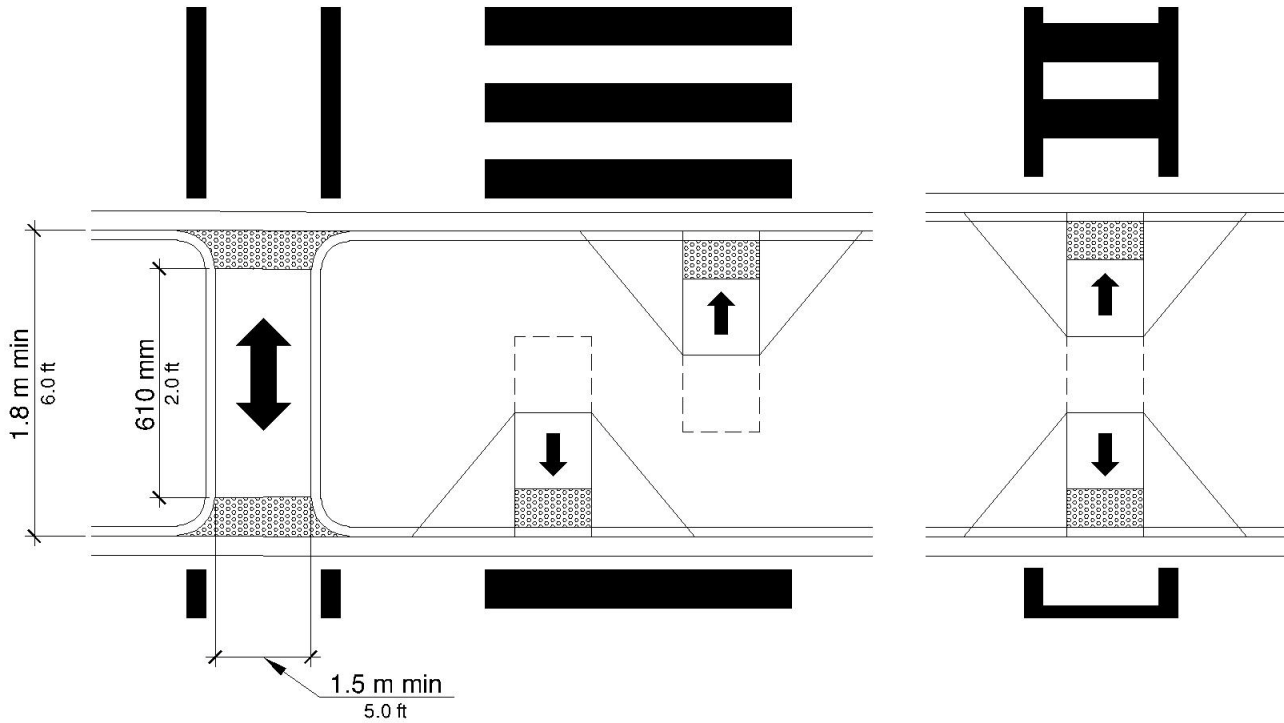


**Figure R305.2.3
Blended Transitions**

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R305.2.4 Pedestrian Refuge Islands. At cut-through pedestrian refuge islands, detectable warning surfaces shall be placed at the edges of the pedestrian island and shall be separated by a 610 mm (2.0 ft) minimum length of surface without detectable warnings.

Advisory R305.2.4 Pedestrian Refuge Islands. The edges of cut-through pedestrian refuge islands can provide useful cues to the direction of the crossing.



**Figure R305.2.4
Pedestrian Refuge Islands**

R305.2.5 Pedestrian At-Grade Rail Crossings. At pedestrian at-grade rail crossings not located within a street or highway, detectable warning surfaces shall be placed on each side of the rail crossing. The edge of the detectable warning surface nearest the rail crossing shall be 1.8 m (6.0 ft) minimum and 4.6 m (15.0 ft) maximum from the centerline of the nearest rail. Where pedestrian gates are provided, detectable warning surfaces shall be placed on the side of the gates opposite the rail.

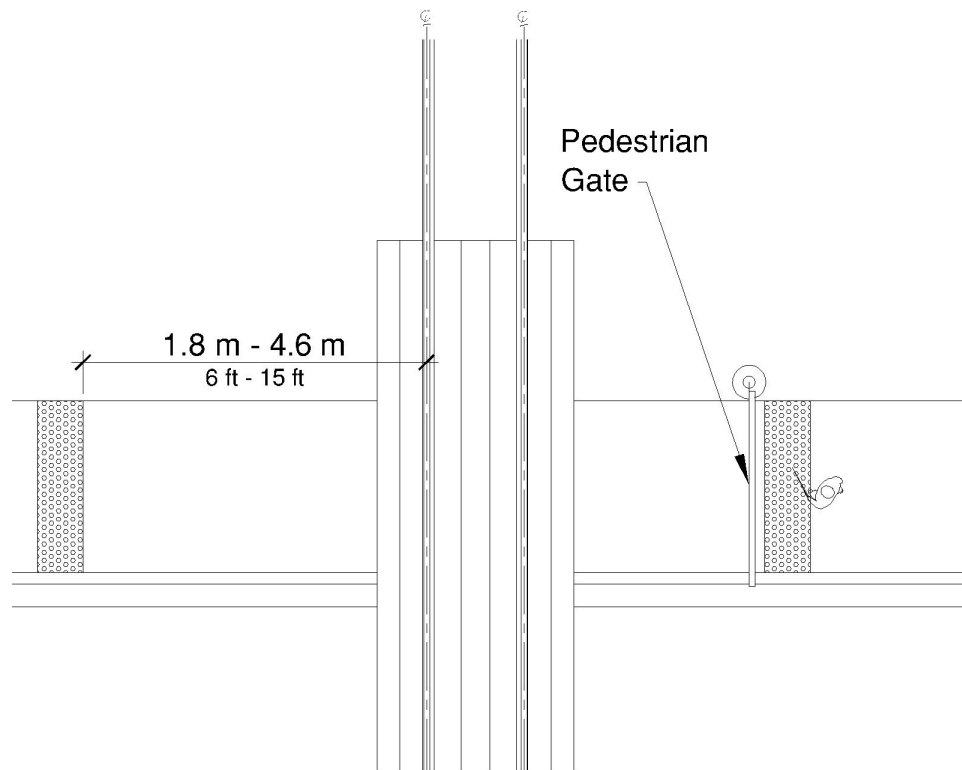


Figure R305.2.5
Pedestrian At-Grade Rail Crossings

R305.2.6 Boarding Platforms. At boarding platforms for buses and rail vehicles, detectable warning surfaces shall be placed at the boarding edge of the platform.

R305.2.7 Boarding and Alighting Areas. At boarding and alighting areas at sidewalk or street level transit stops for rail vehicles, detectable warning surfaces shall be placed at the side of the boarding and alighting area facing the rail vehicles.

R306 Pedestrian Street Crossings

R306.1 General. Pedestrian street crossings shall comply with R306.

R306.2 Pedestrian Signal Phase Timing. All pedestrian signal phase timing shall comply with section 4E.06 of the MUTCD (incorporated by reference, see R104.2) and shall be based on a pedestrian clearance time that is calculated using a pedestrian walking speed of 1.1 m/s (3.5 ft/s) or less.

R306.3 Roundabouts. Where pedestrian facilities are provided at roundabouts, they shall comply with R306.3.

Advisory R306.3 Roundabouts. Pedestrian street crossings at roundabouts can be difficult for pedestrians who are blind or have low vision to identify because the crossings are located off to the side of the pedestrian circulation path around the street or highway. The continuous traffic flow at roundabouts removes many of the audible cues that pedestrians who are blind use to navigate pedestrian street crossings. Water fountains and other features that produce background noise should not be placed in the middle island of a roundabout because pedestrians who are blind use auditory cues to help detect gaps in traffic. Multi-lane pedestrian street crossings at roundabouts involve an increased risk of pedestrian exposure to accident.

R306.3.1 Separation. Where sidewalks are flush against the curb and pedestrian street crossing is not intended, a continuous and detectable edge treatment shall be provided along the street side of the sidewalk. Detectable warning surfaces shall not be used for edge treatment. Where chains, fencing, or railings are used for edge treatment, they shall have a bottom edge 380 mm (15 in) maximum above the sidewalk.

Advisory R306.3.1 Separation. Carefully delineated pedestrian street crossing approaches with plantings or other defined edges provide effective non-visual cues for identifying pedestrian street crossings at roundabouts. European and Australian roundabouts provide a 610 mm (24 inch) width of tactile surface treatment from the centerline of the curb ramp or blended transition across the full width of the sidewalk to provide an underfoot cue for identifying pedestrian street crossings. Detectable warning surfaces should not be used to guide pedestrians who are blind or have low vision to pedestrian street crossings because detectable warning surfaces indicate the flush transition between the sidewalk and the street or highway. Schemes that remove cyclists from the street or highway by means of a ramp that angles from the curb lane to the sidewalk and then provide re-entry by means of a similar ramp beyond pedestrian street crossings can provide false cues to pedestrians who are using the edge of the sidewalk for wayfinding about the location of pedestrian street crossings.

R306.3.2 Pedestrian Activated Signals. At roundabouts with multi-lane pedestrian street crossings, a pedestrian activated signal complying with R209 shall be provided for each multi-lane segment of each pedestrian street crossing, including the splitter island. Signals shall clearly identify which pedestrian street crossing segment the signal serves.

Advisory R306.3.2 Pedestrian Activated Signals. Roundabouts with single-lane approach and exit legs are not required to provide pedestrian activated signals. Pedestrian activated signals must comply with the requirements for accessible pedestrian signals and pedestrian pushbuttons (see R209). Pedestrian activated signals installed at splitter islands should be carefully located and separated so that signal spillover does not give conflicting information about which pedestrian street crossing has the WALK indication displayed. Pedestrian Hybrid Beacons can be used at roundabouts (see MUTCD sections 4F.01 through 4F.03). Pedestrian Hybrid Beacons are traffic signals that consist of a yellow signal centered below two horizontally aligned red signals. The signals are normally not illuminated. The signals are initiated only upon pedestrian activation and can be timed to minimize the interruption of traffic. The signals cease operation after the pedestrian clears the crosswalk. When activated by a pedestrian, the following signals are displayed to drivers: a flashing yellow signal, then a steady yellow signal, then two steady red signals during the pedestrian walk interval, and then alternating flashing red signals during the pedestrian clearance interval. The following signals are displayed to pedestrians: a steady upraised hand (symbolizing DON'T WALK) when the flashing or steady yellow signal is operating, then a walking person (symbolizing WALK) when the steady red signals are operating, and then a flashing upraised hand (symbolizing DON'T WALK) when the alternating flashing red signals are operating.

R306.4 Channelized Turn Lanes at Roundabouts. At roundabouts with pedestrian street crossings, pedestrian activated signals complying with R209 shall be provided at pedestrian street crossings at multi-lane channelized turn lanes.

R306.5 Channelized Turn Lanes at Other Signalized Intersections. At signalized intersections other than roundabouts with pedestrian street crossings, pedestrian activated signals complying with R209 shall be provided at pedestrian street crossings at multi-lane channelized turn lanes.

R307 Accessible Pedestrian Signals and Pedestrian Pushbuttons (See R209)

R308 Transit Stops and Transit Shelters

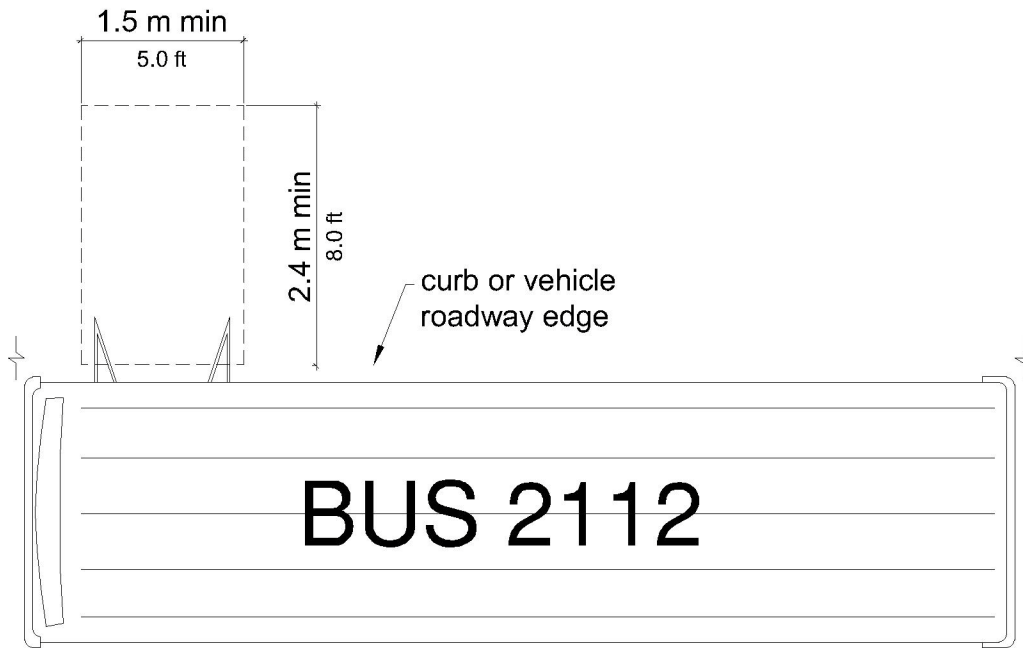
R308.1 Transit Stops. Transit stops shall comply with R308.1.

Advisory R308.1 Transit Stops. Transit stops should be located so that there is a level and stable surface for boarding vehicles. Locating transit stops at signalized intersections increases the usability for pedestrian with disabilities. Where security bollards are installed at transit stops, they must not obstruct the clear space at boarding and alighting areas or reduce the required clear width at pedestrian access routes (see R210).

R308.1.1 Boarding and Alighting Areas. Boarding and alighting areas at sidewalk or street level transit stops shall comply with R308.1.1 and R308.1.3. Where transit stops serve vehicles with more than one car, boarding and alighting areas serving each car shall comply with R308.1.1 and R308.1.3.

Advisory R308.1.1 Boarding and Alighting Areas. Where a transit shelter is provided, the boarding and alighting area can be located either within or outside of the shelter.

R308.1.1.1 Dimensions. Boarding and alighting areas shall provide a clear length of 2.4 m (8.0 ft) minimum, measured perpendicular to the curb or street or highway edge, and a clear width of 1.5 m (5.0 ft) minimum, measured parallel to the street or highway.



**Figure R308.1.1.1
Dimensions**

R308.1.1.2 Grade. Parallel to the street or highway, the grade of boarding and alighting areas shall be the same as the street or highway, to the extent practicable. Perpendicular to the street or highway, the grade of boarding and alighting areas shall not be steeper than 2 percent.

R308.1.2 Boarding Platforms. Boarding platforms at transit stops shall comply with R308.1.2 and R308.1.3.

R308.1.2.1 Platform and Vehicle Floor Coordination. Boarding platforms shall be positioned to coordinate with vehicles in accordance with the applicable requirements in 49 CFR parts 37 and 38.

Advisory R308.1.2.1 Platform and Vehicle Floor Coordination. The Department of Transportation regulations (49 CFR parts 37 and 38) require the height of the vehicle floor and the station platform to be coordinated so as to minimize the vertical and horizontal gaps.

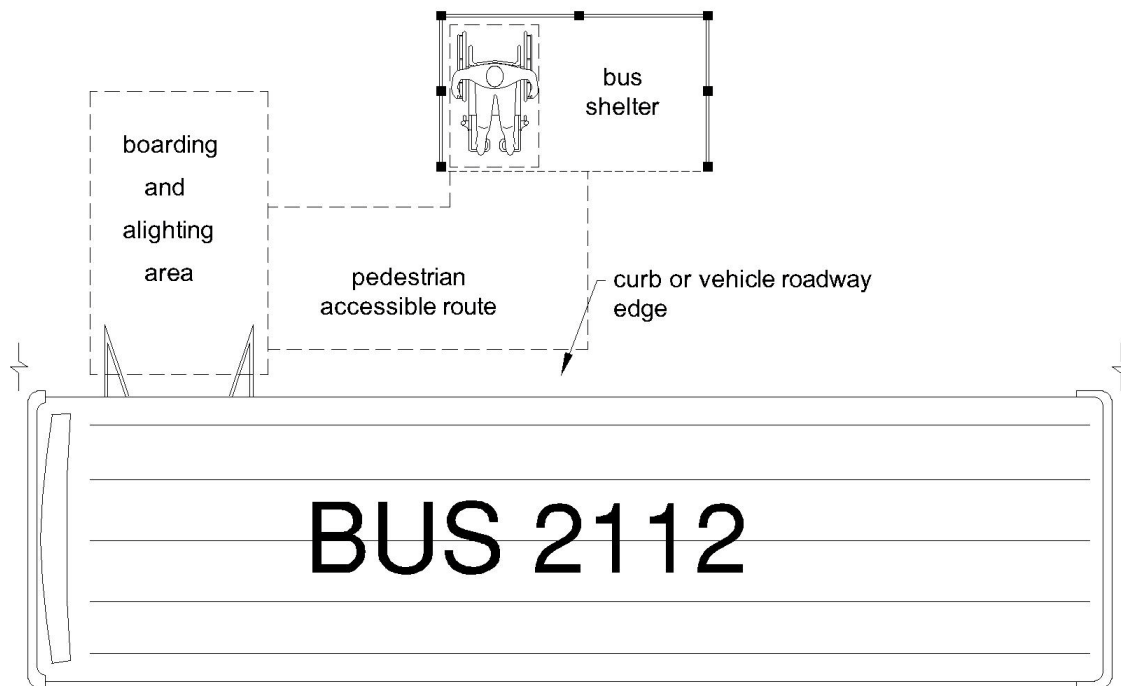
R308.1.2.2 Slope. Boarding platforms shall not exceed a slope of 2 percent in any direction. Where boarding platforms serve vehicles operating on existing track or existing street or highway, the slope of the platform parallel to the track or the street or highway is permitted to be equal to the grade of the track or street or highway.

R308.1.3 Common Requirements. Boarding and alighting areas and boarding platforms shall comply with R308.1.3.

R308.1.3.1 Surfaces. The surfaces of boarding and alighting areas and boarding platforms shall comply with R302.7.

Advisory R308.1.3.1 Surfaces. Detectable warning surfaces are required at boarding and alighting areas for rail vehicles and at boarding platforms for buses and rail vehicles (see R208).

R308.1.3.2 Connection. Boarding and alighting areas and boarding platforms shall be connected to streets, sidewalks, or pedestrian circulation paths by pedestrian access routes complying with R302.



**Figure R308.1.3.2
Connection**

R308.2 Transit Shelters. Transit shelters shall be connected by pedestrian access routes complying with R302 to boarding and alighting areas or boarding platforms complying with R308.1. Transit shelters

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shall provide a minimum clear space complying with R404 entirely within the shelter. Where seating is provided within transit shelters, the clear space shall be located either at one end of a seat or shall not overlap the area within 460 mm (1.5 ft) from the front edge of the seat. Environmental controls within transit shelters shall be proximity-actuated. Protruding objects within transit shelters shall comply with R402.

Advisory R308.2 Transit Shelters. The clear space must be located entirely within the transit shelter and not interfere with other persons using the seating.

R309 On-Street Parking Spaces

R309.1 General. On-street parking spaces shall comply with R309.

Advisory R309.1 General. R214 specifies how many accessible parking spaces must be provided on the block perimeter where on-street parking is marked or metered. Accessible parking spaces must be identified by signs displaying the International Symbol of Accessibility (see R211.3 and R411). Accessible parking spaces should be located where the street has the least crown and grade and close to key destinations.

R309.2 Parallel Parking Spaces. Parallel parking spaces shall comply with R309.2.

Advisory R309.2 Parallel Parking Spaces. The sidewalk adjacent to accessible parallel parking spaces should be free of signs, street furniture, and other obstructions to permit deployment of a van side-lift or ramp or the vehicle occupant to transfer to a wheelchair or scooter. Accessible parallel parking spaces located at the end of the block face are usable by vans that have rear lifts and cars that have scooter platforms.

R309.2.1 Wide Sidewalks. Where the width of the adjacent sidewalk or available right-of-way exceeds 4.3 m (14.0 ft), an access aisle 1.5 m (5.0 ft) wide minimum shall be provided at street level the full length of the parking space and shall connect to a pedestrian access route. The access aisle shall comply with R302.7 and shall not encroach on the vehicular travel lane.

Advisory R309.2.1 Wide Sidewalks. Vehicles may park at the curb or at the parking lane boundary and use the space required by R309.2.1 on either the driver or passenger side of the vehicle to serve as the access aisle.

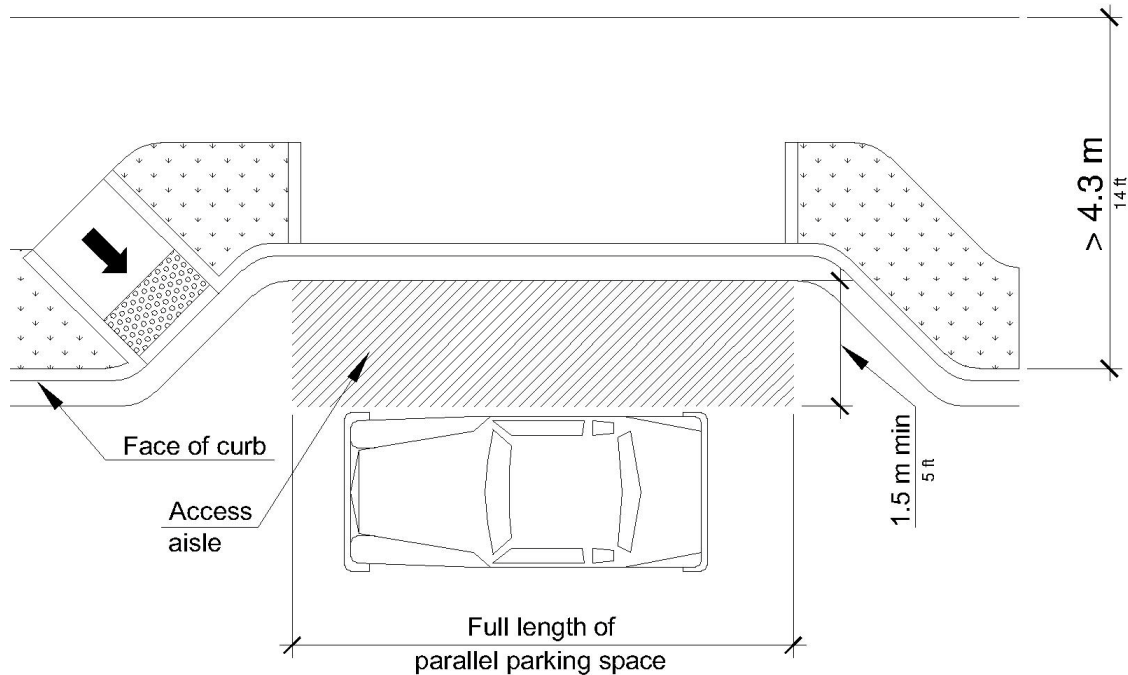


Figure R309.2.1
Wide Sidewalks

R309.2.1.1 Alterations. In alterations where the street or sidewalk adjacent to the parking spaces is not altered, an access aisle shall not be required provided the parking spaces are located at the end of the block face.

R309.2.2 Narrow Sidewalks. An access aisle is not required where the width of the adjacent sidewalk or the available right-of-way is less than or equal to 4.3 m (14.0 ft). When an access aisle is not provided, the parking spaces shall be located at the end of the block face.

Advisory R309.2.2 Narrow Sidewalks. Vehicle lifts or ramps can be deployed on a 2.4 m (8.0 ft) sidewalk if there are no obstructions.

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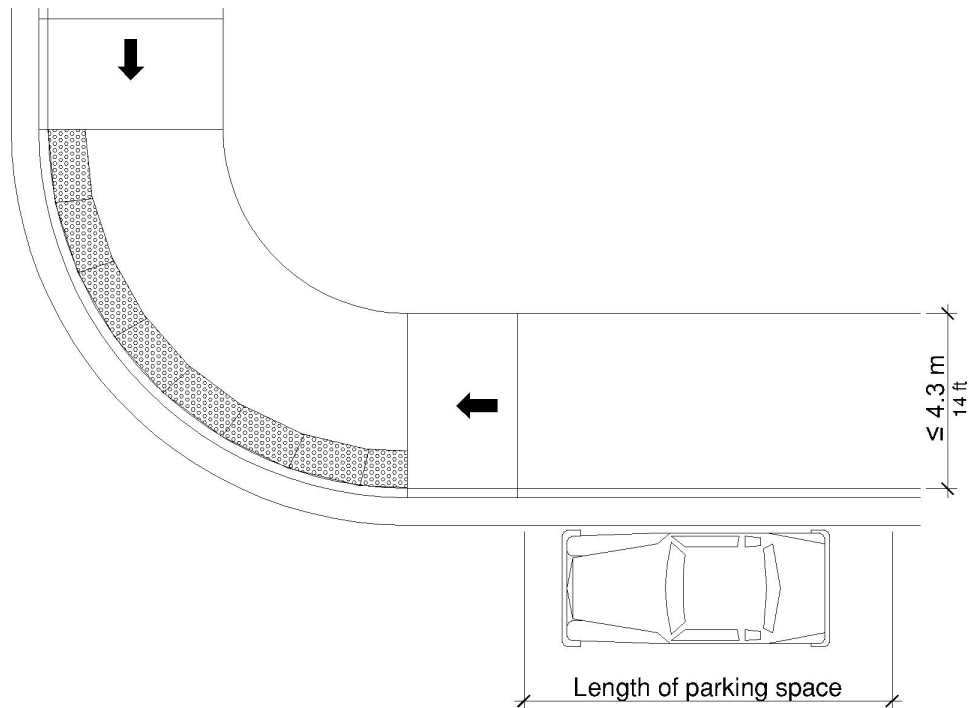


Figure R309.2.2
Narrow Sidewalks

R309.3 Perpendicular or Angled Parking Spaces. Where perpendicular or angled parking is provided, an access aisle 2.4 m (8.0 ft) wide minimum shall be provided at street level the full length of the parking space and shall connect to a pedestrian access route. The access aisle shall comply with R302.7 and shall be marked so as to discourage parking in the access aisle. Two parking spaces are permitted to share a common access aisle.

Advisory R309.3 Perpendicular or Angled Parking Spaces. Perpendicular and angled parking spaces permit the deployment of a van side-lift or ramp.

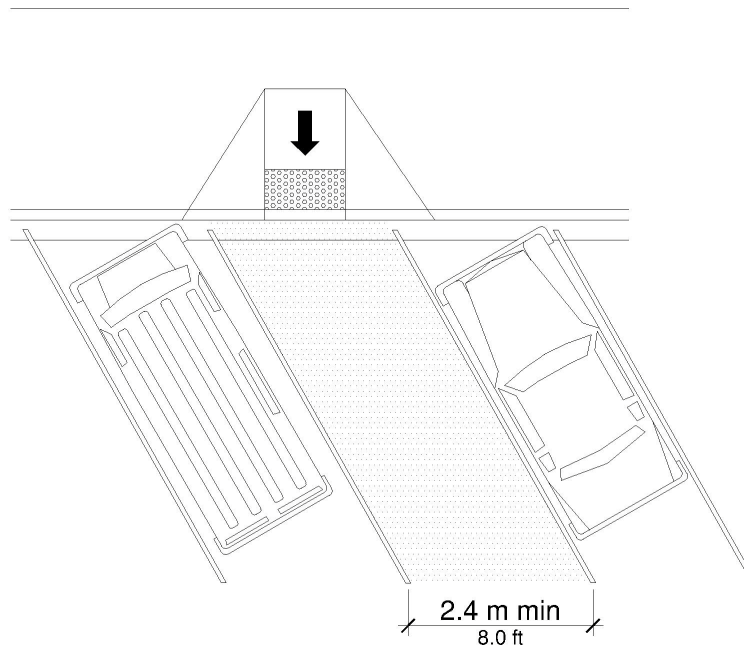


Figure R309.3
Perpendicular or Angled Parking Spaces

R309.4 Curb Ramps or Blended Transitions. Curb ramps or blended transitions complying with R304 shall connect the access aisle to the pedestrian access route. Curb ramps shall not be located within the access aisle.

Advisory R309.4 Curb Ramps or Blended Transitions. At parallel parking spaces, curb ramps and blended transitions should be located so that a van side-lift or ramp can be deployed to the sidewalk and the vehicle occupant can transfer to a wheelchair or scooter. Parking spaces at the end of the block face can be served by curb ramps or blended transitions at the pedestrian street crossing. Detectable warning surfaces are not required on curb ramps and blended transitions that connect the access aisle to the sidewalk, including where the sidewalk is at the same level as the parking spaces, unless the curb ramps and blended transitions also serve pedestrian street crossings (see R208).

R309.5 Parking Meters and Parking Pay Stations. Parking meters and parking pay stations that serve accessible parking spaces shall comply with R309.5. Operable parts shall comply with R403.

R309.5.1 Location. At accessible parallel parking spaces, parking meters shall be located at the head or foot of the parking space.

Advisory R309.5.1 Location. Locating parking meters at the head or foot of the parking space permits deployment of a van side-lift or ramp or the vehicle occupant to transfer to a wheelchair or scooter.

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R309.5.2 Displays and Information. Displays and information shall be visible from a point located 1.0 m (3.3 ft) maximum above the center of the clear space in front of the parking meter or parking pay station.

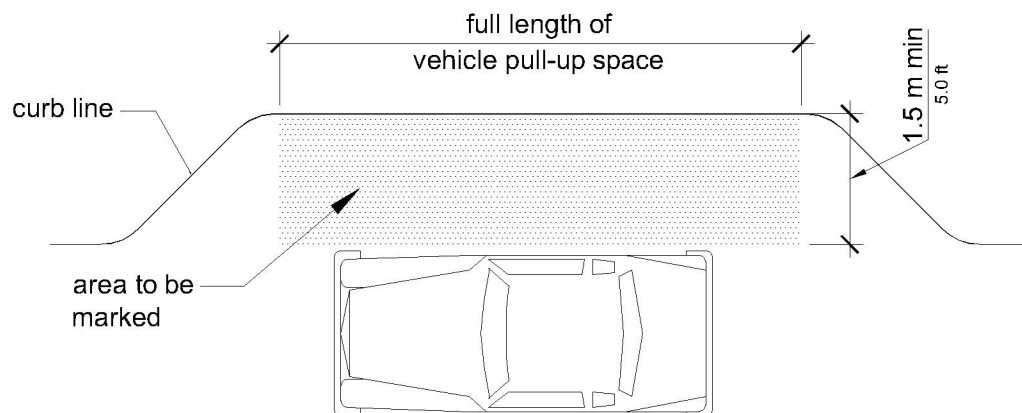
R310 Passenger Loading Zones

R310.1 General. Passenger loading zones shall comply with R310.

Advisory R310.1 General. Accessible passenger loading zones must be identified by signs displaying the International Symbol of Accessibility (see R211.3 and R411).

R310.2 Vehicle Pull-Up Space. Passenger loading zones shall provide a vehicular pull-up space 2.4 m (8.0 ft) wide minimum and 6.1 m (20.0 ft) long minimum.

R310.3 Access Aisle. Passenger loading zones shall provide access aisles complying with R310.3 adjacent to the vehicle pull-up space. Access aisles shall be at the same level as the vehicle pull-up space they serve and shall not overlap the vehicular travel lane. Curb ramps or blended transitions complying with R304 shall connect the access aisle to the pedestrian access route. Curb ramps are not permitted within the access aisle.



**Figure R310.3
Access Aisle**

R310.3.1 Width. Access aisles serving vehicle pull-up spaces shall be 1.5 m (5.0 ft) wide minimum.

R310.3.2 Length. Access aisles shall extend the full length of the vehicle pull-up spaces they serve.

R310.3.3 Marking. Access aisles shall be marked so as to discourage parking in them.

R310.3.4 Surfaces. Access aisle surfaces shall comply with R302.7.

CHAPTER R4: SUPPLEMENTARY TECHNICAL REQUIREMENTS

R401 General

R401.1 Scope. The supplemental technical requirements in Chapter 4 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

R402 Protruding Objects

R402.1 General. Protruding objects shall comply with R402.

R402.2 Protrusion Limits. Objects with leading edges more than 685 mm (2.25 ft) and not more than 2 m (6.7 ft) above the finish surface shall protrude 100 mm (4 in) maximum horizontally into pedestrian circulation paths.

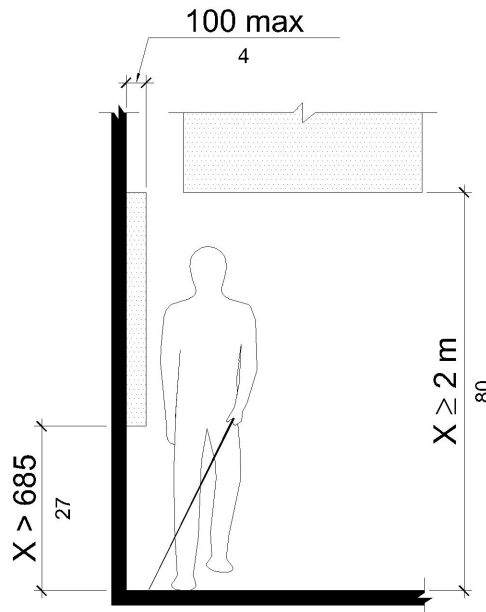


Figure R402.2
Protrusion Limits

R402.3 Post-Mounted Objects. Where objects are mounted on free-standing posts or pylons and the objects are 685 mm (2.25 ft) minimum and 2030 mm (6.7 ft) maximum above the finish surface, the objects shall overhang pedestrian circulation paths 100 mm (4 in) maximum measured horizontally from the post or pylon base. The base dimension shall be 64 mm (2.5 in) thick minimum. Where objects are mounted between posts or pylons and the clear distance between the posts or pylons is greater than 305 mm (1.0 ft), the lowest edge of the object shall be 685 mm (2.25 ft) maximum or 2 m (6.7 ft) minimum above the finish surface.

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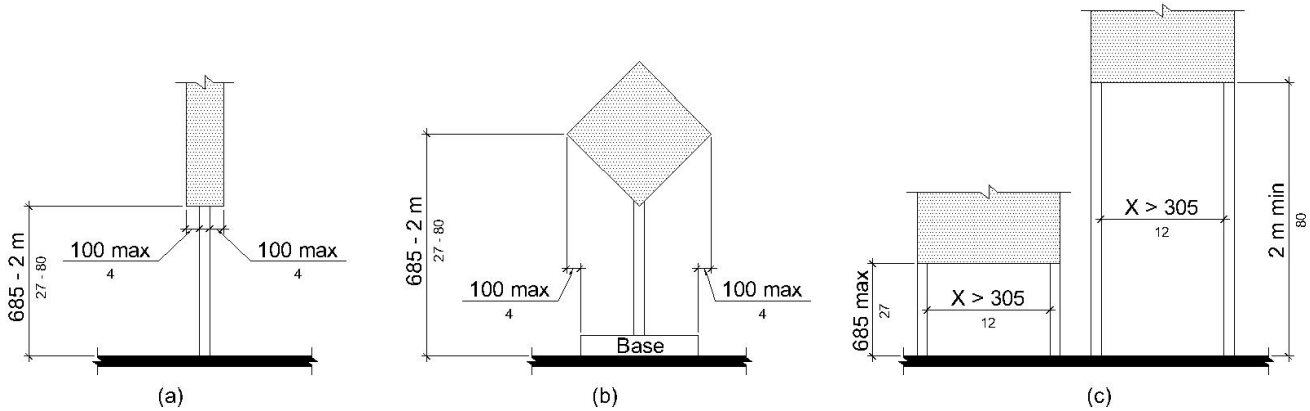


Figure R402.3
Post-Mounted Objects

R402.4 Reduced Vertical Clearance. Guardrails or other barriers to pedestrian travel shall be provided where the vertical clearance is less than 2 m (6.7 ft) high. The leading edge of the guardrail or barrier shall be located 685 mm (2.25 ft) maximum above the finish surface.

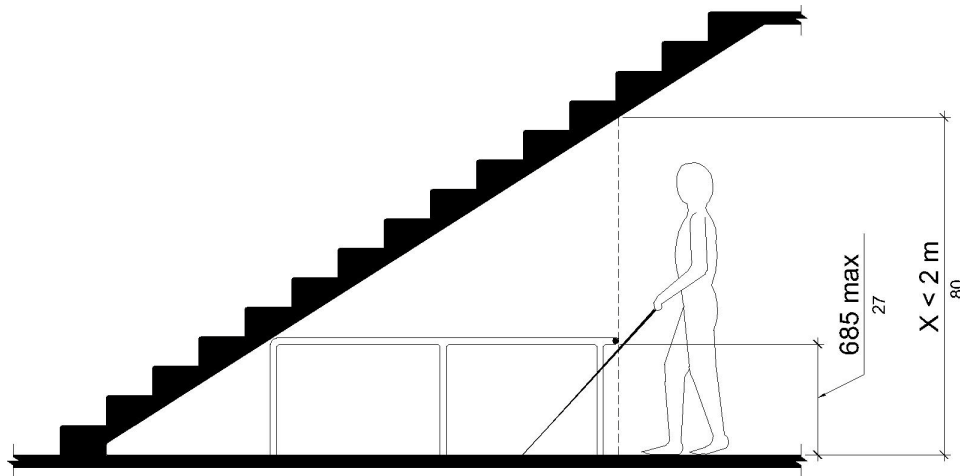


Figure R402.4
Reduced Vertical Clearance

R403 Operable Parts

R403.1 General. Operable parts shall comply with R403.

Advisory R403.1 General. Operable parts on accessible pedestrian signals and pedestrian pushbuttons (see R209) and parking meters and parking pay stations that serve accessible parking spaces (see R309.5) must comply with R403.

R403.2 Clear Space. A clear space complying with R404 shall be provided at operable parts.

R403.3 Height. Operable parts shall be placed within one or more of the reach ranges specified in R406.

R403.4 Operation. Operable parts shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate operable parts shall be 22 N (5 lbs) maximum.

R404 Clear Spaces

R404.1 General. Clear spaces shall comply with R404.

Advisory R404.1 General. Clear spaces are required at operable parts (see R403.2), including accessible pedestrian signals and pedestrian pushbuttons (see R209) and parking meters and parking pay stations that serve accessible parking spaces (see R309.5). Clear spaces are also required at benches (see R212.6) and within transit shelters (see R308.2).

R404.2 Surfaces. Surfaces of clear spaces shall comply with R302.7 and shall have a running slope consistent with the grade of the adjacent pedestrian access route and cross slope of 2 percent maximum.

R404.3 Size. Clear spaces shall be 760 mm (2.5 ft) minimum by 1220 mm (4.0 ft) minimum.

R404.4 Knee and Toe Clearance. Unless otherwise specified, clear spaces shall be permitted to include knee and toe clearance complying with R405.

R404.5 Position. Unless otherwise specified, clear spaces shall be positioned for either forward or parallel approach to an element.

R404.6 Approach. One full unobstructed side of a clear space shall adjoin a pedestrian access route or adjoin another clear space.

R404.7 Maneuvering Space. Where a clear space is confined on all or part of three sides, additional maneuvering space shall be provided in accordance with R404.7.1 and R404.7.2.

R404.7.1 Forward Approach. The clear space and additional maneuvering space shall be 915 mm (3.0 ft) wide minimum where the depth exceeds 610 mm (2.0 ft).

R404.7.2 Parallel Approach. The clear space and additional maneuvering space shall be 1525 mm (5.0 ft) wide minimum where the depth exceeds 380 mm (1.25 ft).

R405 Knee and Toe Clearance

R405.1 General. Where space beneath an element is included as part of a clear space, the space shall comply with R405. Additional space shall not be prohibited beneath an element but shall not be considered as part of the clear space.

Advisory R405.1 General. Clearances are measured in relation to the usable clear space, not necessarily to the vertical support for an element. When determining clearance under an object, care should be taken to ensure that the space is clear of any obstructions.

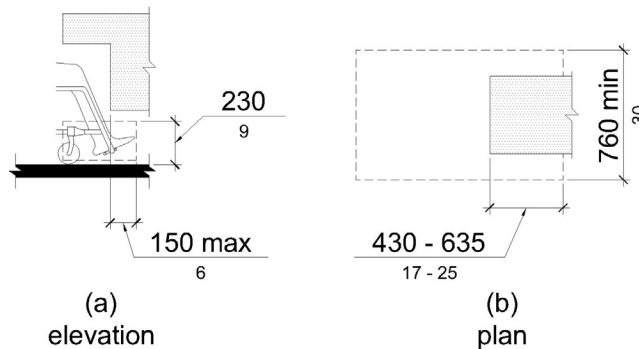
R405.2 Toe Clearance

R405.2.1 General. Space under an element between the finish surface and 230 mm (9 in) above the finish surface shall be considered toe clearance and shall comply with R405.2.

R405.2.2 Maximum Depth. Toe clearance shall extend 635 mm (2.1 ft) maximum under an element.

R405.2.3 Minimum Required Depth. Where toe clearance is required at an element as part of a clear space, the toe clearance shall extend 430 mm (1.4 ft) minimum under the element.

R405.2.4 Width. Toe clearance shall be 760 mm (2.5 ft) wide minimum.



**Figure R405.2
Toe Clearance**

R405.3 Knee Clearance

R405.3.1 General. Space under an element between 230 mm (9 in) and 685 mm (2.25 ft) above the finish surface shall be considered knee clearance and shall comply with R405.3.

R405.3.2 Maximum Depth. Knee clearance shall extend 635 mm (2.1 ft) maximum under an element at 230 mm (9 in) above the finish surface.

R405.3.3 Minimum Required Depth. Where knee clearance is required under an element as part of a clear space, the knee clearance shall be 280 mm (11 in) deep minimum at 230 mm (9 in) above the finish surface, and 205 mm (8 in) deep minimum at 685 mm (2.25 ft) above the finish surface.

R405.3.4 Clearance Reduction. Between 230 mm (9 in) and 685 mm (2.25 ft) above the finish surface, the knee clearance shall be permitted to reduce at a rate of 25 mm (1 in) in depth for each 150 mm (6 in) in height.

R405.3.5 Width. Knee clearance shall be 760 mm (2.5 ft) wide minimum.

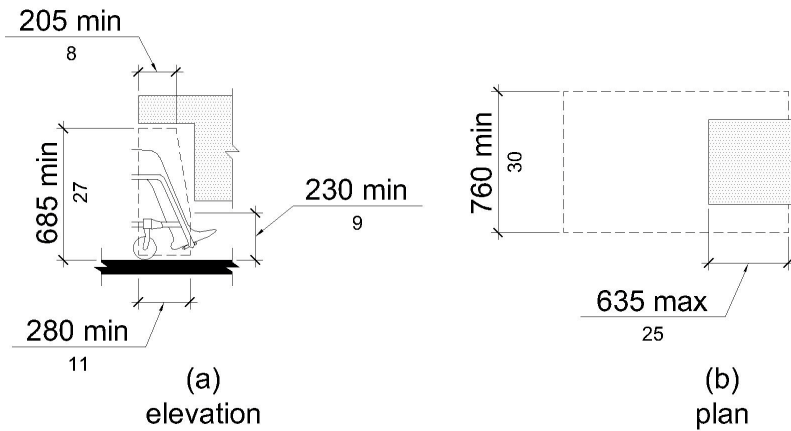


Figure R405.3
Knee Clearance

R406 Reach Ranges

R406.1 General. Reach ranges shall comply with R406.

R406.2 Unobstructed Forward Reach. Where a forward reach is unobstructed, the high forward reach shall be 1220 mm (4.0 ft) maximum and the low forward reach shall be 380 mm (1.25 ft) minimum above the finish surface. Forward reach over an obstruction is not permitted.

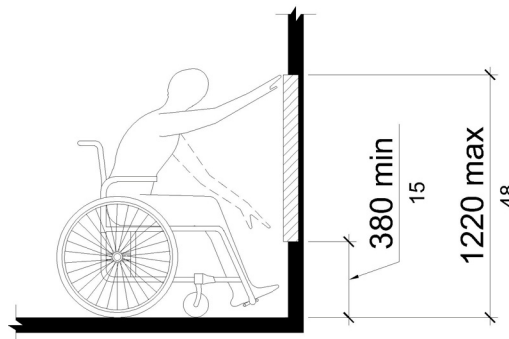


Figure R406.2
Unobstructed Forward Reach

R406.3 Unobstructed Side Reach. Where a clear space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 1220 mm (4.0 ft) maximum and the low side reach shall be 380 mm (1.25 ft) minimum above the finish surface. An obstruction shall be permitted between the clear space and the element where the depth of the obstruction is 255 mm (10 in) maximum.

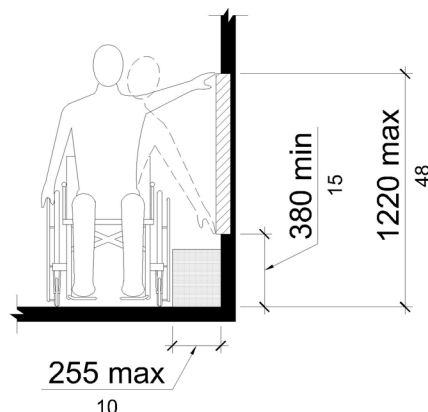


Figure R406.3
Unobstructed Side Reach

R407 Ramps

R407.1 General. Ramps shall comply with R407.

R407.2 Running Slope. Ramp runs shall have a running slope between 5 percent minimum and 8.3 percent maximum.

Advisory R407.2 Running Slope. Ramps with the least possible running slope accommodate the widest range of users. Providing stairways along with ramps, where possible, benefits pedestrians with heart disease, limited stamina, and others for whom distance presents a greater barrier than steps.

R407.3 Cross Slope. The cross slope of ramp runs shall be 2 percent maximum.

R407.4 Width. The clear width of a ramp run and, where handrails are provided, the clear width between handrails shall be 915 mm (3.0 ft) minimum.

R407.5 Rise. The rise for any ramp run shall be 760 mm (2.5 ft) maximum.

R407.6 Landings. Ramps shall have landings at the top and the bottom of each ramp run. Landings shall comply with R407.6.

R407.6.1 Slope. Landing slopes shall be 2 percent maximum in any direction.

R407.6.2 Width. The landing clear width shall be at least as wide as the widest ramp run leading to the landing.

R407.6.3 Length. The landing clear length shall be 1.5 m (5.0 ft) long minimum.

R407.6.4 Change in Direction. Ramps that change direction between runs at landings shall have a clear landing 1.5 m (5.0 ft) minimum by 1.5 m (5.0 ft) minimum.

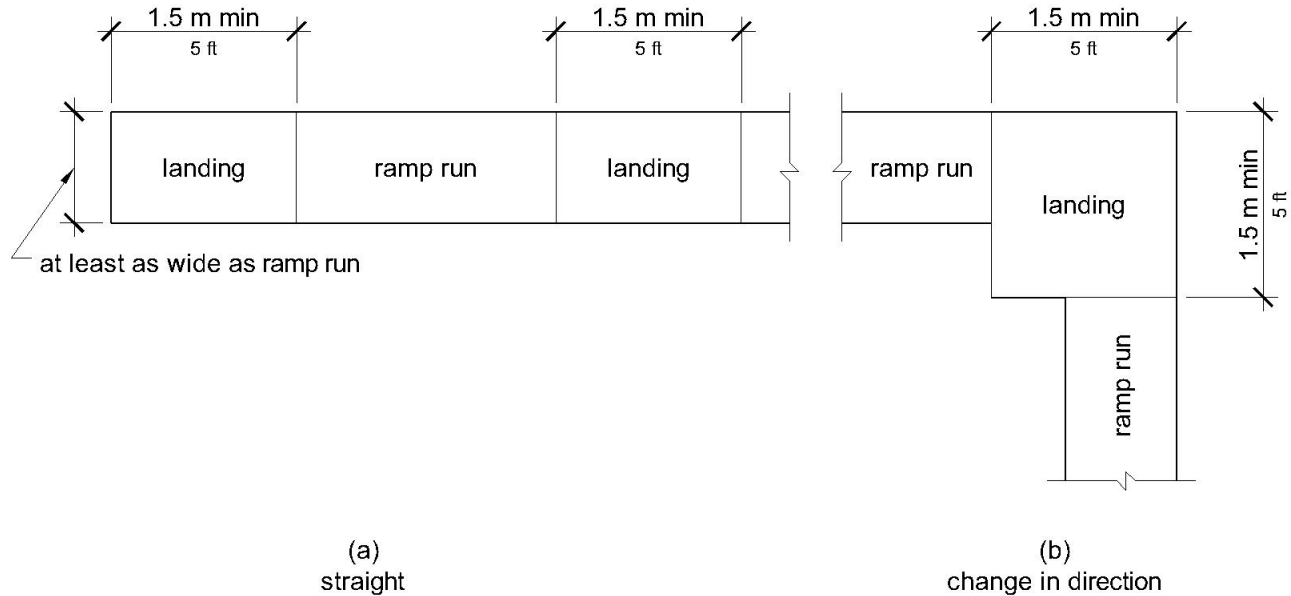


Figure R407.6
Landings

R407.7 Surfaces. Surfaces of ramp runs and landings shall comply with R302.7.

R407.8 Handrails. Ramp runs with a rise greater than 150 mm (6 in) shall have handrails complying with R409.

R407.9 Edge Protection. Edge protection complying with R407.9.1 or R407.9.2 shall be provided on each side of ramp runs and ramp landings.

R407.9.1 Extended Ramp Surface. The surface of the ramp run or landing shall extend 305 mm (1.0 ft) minimum beyond the inside face of a handrail complying with R409.

Advisory R407.9.1 Extended Ramp Surface. The extended surface prevents wheelchair casters and crutch tips from slipping off the ramp surface.

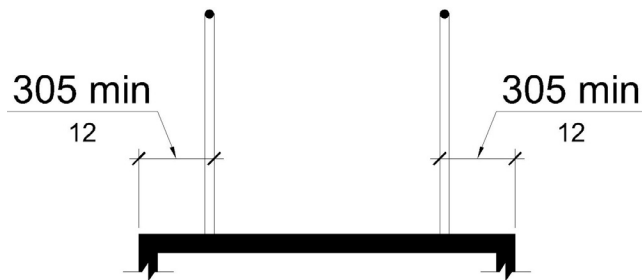


Figure R407.9.1
Extended Ramp Surface

R407.9.2 Curb or Barrier. A curb or barrier shall be provided that prevents the passage of a 100 mm (4 in) diameter sphere, where any portion of the sphere is within 100 mm (4 in) of the finish surface.

R408 Stairways

R408.1 General. Stairways shall comply with R408.

R408.2 Treads and Risers. All steps on a flight of stairs shall have uniform riser heights and uniform tread depths. Risers shall be 100 mm (4 in) high minimum and 180 mm (7 in) high maximum. Treads shall be 280 mm (11 in) deep minimum.

R408.3 Open Risers. Open risers are not permitted.

R408.4 Tread Surface. Stairway treads shall comply with R302.7. Changes in level are not permitted.

R408.5 Nosings. The radius of curvature at the leading edge of the tread shall be 13 mm (0.5 inch) maximum. Nosings that project beyond risers shall have the underside of the leading edge curved or beveled. Risers shall be permitted to slope under the tread at an angle of 30 degrees maximum from vertical. The permitted projection of the nosing shall extend 38 mm (1.5 in) maximum over the tread below.

R408.6 Handrails. Stairways shall have handrails complying with R409.

R409 Handrails

R409.1 General. Handrails required at ramps and stairways, and handrails provided on pedestrian circulation paths shall comply with R409.

Advisory R409.1 General. Handrails are required on ramp runs with a rise greater than 150 mm (6 in) (see R407.8) and stairways (see R408.6). Handrails are not required on pedestrian circulation paths. However, if handrails are provided on pedestrian circulation paths, the handrails must comply with R409 (see R217). The requirements in R409.2, R409.3, and R409.10 apply only to handrails at ramps and stairways, and do not apply to handrails provided on pedestrian circulation paths.

R409.2 Where Required. Handrails shall be provided on both sides of ramps and stairways.

R409.3 Continuity. Handrails shall be continuous within the full length of each ramp run or stair flight. Inside handrails on switchback or dogleg ramps and stairways shall be continuous between ramp runs or stair flights.

R409.4 Height. Top of gripping surfaces of handrails shall be 865 mm (2.8 ft) minimum and 965 mm (3.2 ft) maximum vertically above walking surfaces, ramp surfaces, and stair nosings. Handrails shall be at a consistent height above walking surfaces, ramp surfaces, and stair nosings.

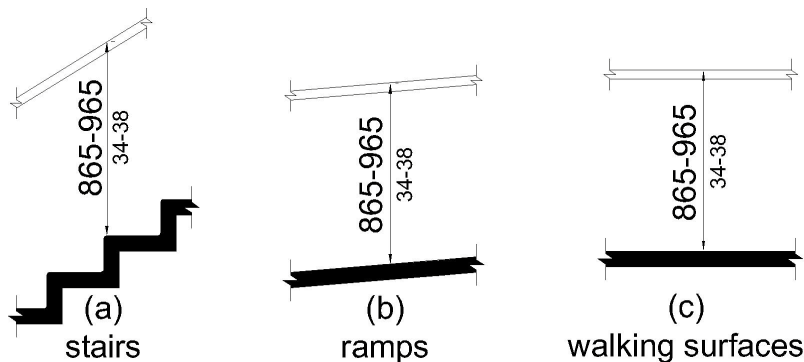


Figure R409.4
Height

R409.5 Clearance. Clearance between handrail gripping surfaces and adjacent surfaces shall be 38 mm (1.5 in) minimum.

R409.6 Gripping Surface. Handrail gripping surfaces shall be continuous along their length and shall not be obstructed along their tops or sides. The bottoms of handrail gripping surfaces shall not be obstructed for more than 20 percent of their length. Where provided, horizontal projections shall occur 38 mm (1.5 in) minimum below the bottom of the handrail gripping surface.

Advisory R409.6 Gripping Surface. Pedestrians with disabilities and others benefit from continuous gripping surfaces that permit users to reach the fingers outward or downward to grasp the handrail.

Public Rights-of-Way Accessibility Guidelines: CHAPTER R4: SUPPLEMENTARY TECHNICAL REQUIREMENTS

R409.7 Cross Section. Handrail gripping surfaces shall have a cross section complying with R409.7.1 or R409.7.2. Where expansion joints are necessary for large spans of handrails, the expansion joint is permitted to be smaller than the specified cross section diameters for a 25mm (1 in) length.

R409.7.1 Circular Cross Section. Handrail gripping surfaces with a circular cross section shall have an outside diameter of 32 mm (1.25 in) minimum and 51 mm (2 in) maximum.

R409.7.2 Non-Circular Cross Sections. Handrail gripping surfaces with a non-circular cross section shall have a perimeter dimension of 100 mm (4 in) minimum and 160 mm (6.25 in) maximum, and a cross-section dimension of 57 mm (2.25 in) maximum.

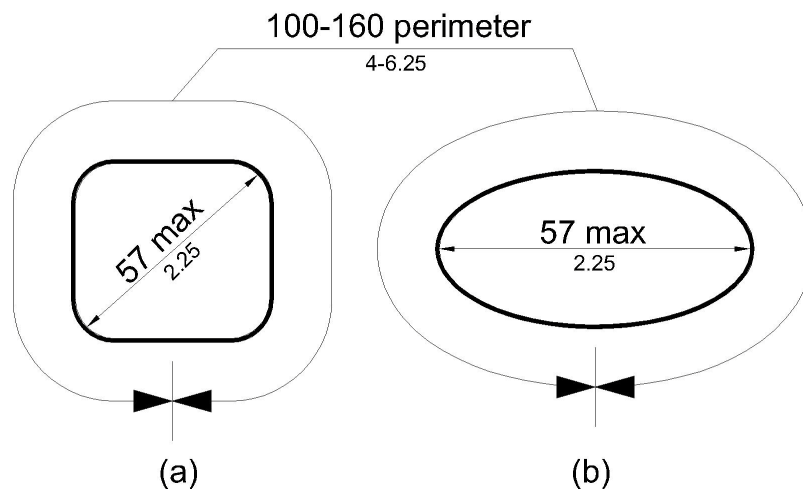


Figure R409.7.2
Non-Circular Cross Sections

R409.8 Surfaces. Handrail gripping surfaces and any surfaces adjacent to them shall be free of sharp or abrasive elements and shall have rounded edges.

R409.9 Fittings. Handrails shall not rotate within their fittings. Where expansion joints are necessary for large spans of handrails, the expansion joint is permitted to rotate in its fitting.

R409.10 Handrail Extensions. Handrail gripping surfaces shall extend beyond and in the same direction of ramp runs and stair flights in accordance with R409.10. Extensions shall not be required for continuous handrails at the inside turn of switchback or dogleg ramps and stairways. In alterations where handrail extensions would reduce the clear width required for pedestrian access routes, handrail extensions shall not be required.

R409.10.1 Top and Bottom Extension at Ramps. Ramp handrails shall extend horizontally above the landing for 305 mm (1.0 ft) minimum beyond the top and bottom of ramp runs. Extensions shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent ramp run.

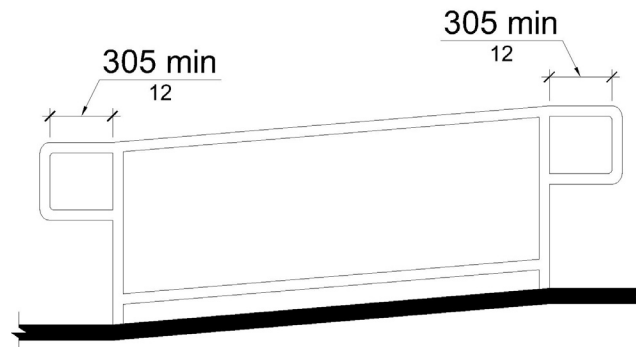


Figure R409.10.1
Top and Bottom Extension at Ramps

R409.10.2 Top Extension at Stairways. At the top of a stair flight, handrails shall extend horizontally above the landing for 305 mm (1.0 ft) minimum beginning directly above the first riser nosing. Extensions shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent stair flight.

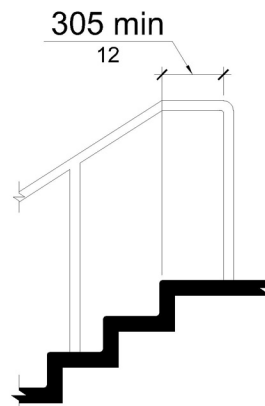


Figure R409.10.2
Top Extension at Stairways

R409.10.3 Bottom Extension at Stairways. At the bottom of a stair flight, handrails shall extend at the slope of the stair flight for a horizontal distance at least equal to one tread depth beyond the last riser nosing. Extensions shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent stair flight.

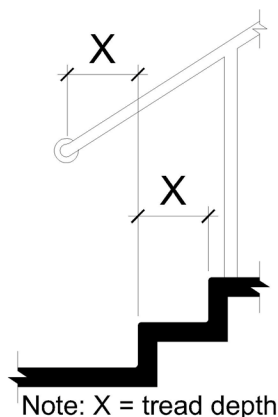


Figure R409.10.3
Bottom Extension at Stairways

R410 Visual Characters on Signs

R410.1 General. Visual characters on signs shall comply with R410.

R410.2 Finish and Contrast. Characters and their background shall have a non-glare finish. Characters shall contrast with their background with either light characters on a dark background or dark characters on a light background.

Advisory R410.2 Finish and Contrast. Signs are more legible for pedestrians with low vision when characters contrast as much as possible with their background. Additional factors affecting the ease with which the text can be distinguished from its background include shadows cast by lighting sources, surface glare, and the uniformity of the text and its background colors and textures.

R410.3 Case. Characters shall be uppercase or lowercase or a combination of both.

R410.4 Style. Characters shall be conventional in form. Characters shall not be italic, oblique, script, highly decorative, or of other unusual forms.

R410.5 Character Proportions. Characters shall be selected from fonts where the width of the uppercase letter "O" is 55 percent minimum and 110 percent maximum of the height of the uppercase letter "I".

R410.6 Character Height. Minimum character height shall comply with Table R410.2.5. Viewing distance shall be measured as the horizontal distance between the character and an obstruction preventing further approach towards the sign. Character height shall be based on the uppercase letter "I".

Table R410.6 Visual Character Height

| Height to Finish Surface from Baseline of Character | Horizontal Viewing Distance | Minimum Character Height |
|--|-----------------------------|--|
| 1.0 m (3.3 ft) to less than or equal to 1.8 m (5.8 ft) | Less than 1.8 m (6.0 ft) | 16 mm (0.625 in) |
| | 1.8 m (6.0 ft) and greater | 16 mm (0.625 in), plus 3.2 mm (0.125 in) per 0.3 m (1.0 ft) of viewing distance above 1.8 m (6.0 ft) |
| Greater than 1.8 m (5.8 ft) to less than or equal to 3.0 m (10.0 ft) | Less than 4.6 m (15.0 ft) | 51 mm (2 in) |
| | 4.6 m (15.0 ft) and greater | 16 mm (0.625 in), plus 3.2 mm (0.125 in) per 0.3 m (1.0 ft) of viewing distance above 1.8 m (6.0 ft) |
| Greater than 3.0 m (10.0 ft) | Less than 6.4 m (21.0 ft) | 75 mm (3 in) |
| | 6.4 m (21.0 ft) and greater | 75 mm (3 in), plus 3.2 mm (0.125 in) per 0.3 m (1.0 ft) of viewing distance above 6.4 m (21.0 ft) |

R410.7 Height from Finish Surface. Visual characters shall be 1.0 m (3.25 ft) minimum above the finish surface.

R410.8 Stroke Thickness. Stroke thickness of the uppercase letter "I" shall be 10 percent minimum and 30 percent maximum of the height of the character.

R410.9 Character Spacing. Character spacing shall be measured between the two closest points of adjacent characters, excluding word spaces. Spacing between individual characters shall be 10 percent minimum and 35 percent maximum of character height.

R410.10 Line Spacing. Spacing between the baselines of separate lines of characters within a message shall be 135 percent minimum and 170 percent maximum of the character height.

R411 International Symbol of Accessibility. The International Symbol of Accessibility shall comply with Figure 411. The symbol and its background shall have a non-glare finish. The symbol shall contrast with its background with either a light symbol on a dark background or a dark symbol on a light background.



Figure R411
International Symbol of Accessibility

EXHIBIT B

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LAUREL LAWSON, JAMES CURTIS,)
and JAMES TURNER, on behalf of)
themselves and other similarly-situated)
persons,)
)
Plaintiffs,)
)
v.)
)
CITY OF ATLANTA, GEORGIA,)
)
Defendant.)

CIVIL ACTION FILE NO.
1:18-cv-02484-SDG

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF
CONSENT DECREE**

The Parties have applied to the Court for an order preliminarily approving the settlement of this action in accord with the Proposed Consent Decree (“Consent Decree”), which sets forth the terms and conditions of a proposed settlement and dismissal of the action with prejudice, subject to the Court’s continuing jurisdiction to enforce the Consent Decree throughout its term. Having read the papers submitted and carefully considered the arguments and relevant legal authority, and good cause appearing, the Court GRANTS the Parties’ Joint Motion for Preliminary Approval of Consent Decree.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. This Court grants the Parties' Joint Motion for Preliminary Approval of Consent Decree, certifying a class for declaratory and injunctive relief. The Court finds, for purposes of settlement only, and conditioned upon the entry of this Order and the Final Judgment and Order Approving Settlement, that the requirements of Rule 23 of the Federal Rules of Civil Procedure are met by the Class: (a) joinder of all Class Members in a single proceeding would be impracticable, if not impossible, because of their numbers and dispersion; (b) there are questions of law and fact common to the Class; (c) Plaintiffs' claims are typical of the claims of the Class that they seek to represent for the purposes of settlement; (d) Plaintiffs have fairly and adequately represented the interests of the Class and will continue to do so; (e) Plaintiffs and the Class are represented by qualified, reputable counsel who are experienced in preparing and prosecuting class actions, including those involving the types of allegations made in the Complaint; and (f) the City acted or refused to act on grounds that apply generally to the Class, so that final declaratory and injunctive relief is appropriate. Accordingly, the Court hereby certifies the following Class pursuant to Federal Rule of Civil Procedure 23(a) and (b)(2): All persons who have, or will have, a Mobility Disability and who have been or will be denied equal access to pedestrian rights of way in the City of Atlanta at any time up through the expiration of this Consent Decree as a result of the City's policies and practices with regard to design, installation, repair, and maintenance of its pedestrian rights of way.

Pursuant to Federal Rule of Civil Procedure 23(c)(1)(B), the Court appoints Plaintiffs as representatives of the Class and Plaintiffs' Counsel to represent the Class.

2. The Court hereby preliminarily approves the Consent Decree. The Court finds on a preliminary basis that the Consent Decree is fair, adequate, and reasonable to all potential Class Members. It further appears that extensive evaluation of the merits has been conducted such that Counsel for the Parties are able to reasonably evaluate their respective positions. It also appears to the Court that settlement at this time will avoid substantial additional costs to all Parties, as well as avoid the delay and risks presented by further litigation. It further appears that the Consent Decree has been reached as the result of good faith, prolonged, serious, and non-collusive arms-length negotiations.

3. The Court hereby approves, as to form and content, the proposed Notice of Settlement, attached as Exhibit C to the Consent Decree. The Court finds that the distribution in the manner and form set forth in the Consent Decree meets the requirements of due process and the Federal Rules of Civil Procedure 23(c)(2) and 23(e). This Notice of Settlement is the best practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The Parties shall submit declarations to the Court as part of their Motion for Final Approval of

the Consent Decree confirming compliance with the notice provision of the Consent Decree.

4. A hearing on final approval of the Consent Decree (“Fairness Hearing”) shall be held before the Court, as set forth below, to determine all necessary matters concerning the Consent Decree, including whether the proposed Consent Decree’s terms and conditions are fair, adequate, and reasonable, and whether the Consent Decree should receive final approval by the Court, as well as to rule on Class Counsel’s motion requesting an award of reasonable attorneys’ fees, costs, and expenses.

5. Any Class Member may object to this Consent Decree by filing, no later than sixty (60) days after the entry of this Order (the “Objection Deadline”), a written objection with the Court. Any Class Member may object to any aspect of the proposed Consent Decree either on their own or through an attorney hired at their own expense. Any Class Member who wishes to object to the proposed Consent Decree may file a written statement of objection no later than the Objection Deadline that should include: (a) the name, address, and, if available, telephone number and e-mail address of the Class member objecting, (b) if represented by counsel, the name, address, telephone number, and e-mail address of the Class Member’s counsel; (c) a statement identifying the specific grounds for the Class Member’s

objection; and (d) a statement of whether the objection applies to the Class Member, to a specific subset of the class, or to the entire class.

6. Any Class Member who wishes to object to the proposed Consent Decree may also present objections at the Fairness Hearing.

7. The procedures and requirements for filing objections in connection with the Fairness Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Class Member's objection to the Consent Decree, in accordance with the due process rights of all Class Members.

8. Class Counsel shall provide copies of any objections to Defendant's counsel within two (2) days of receipt. Responses by Class Counsel and/or the City to any timely-filed objections will be filed with the Court no less than five (5) days before the Fairness Hearing.

9. Pending the Fairness Hearing, all proceedings in this action, other than proceedings necessary to carry out and enforce the terms and conditions of the Decree and this Order, are hereby stayed. Additionally, the Court enjoins all Class Members from asserting or maintaining any claims to be released by the Consent Decree until the date of the Fairness Hearing.

10. The Court adopts the following schedule:

a. Within ten (10) days after the Court's entry of the Preliminary Approval Order, Class Counsel shall mail, via U.S. Mail and/or email, the Notice of

Settlement in the form of Exhibit C to the Consent Decree to all organizations identified in Exhibit D to the Consent Decree.

b. Within twenty (20) days after the Court's entry of the Preliminary Approval Order, the City shall cause a copy of the Notice of Settlement to be posted and remain posted on the City's official website (www.atlantaga.gov) for four (4) consecutive weeks.

c. Within twenty (20) days after the Court's entry of the Preliminary Approval Order, Class Counsel shall cause a copy of the Notice of Settlement to be posted and remain posted on Class Counsel's website for four (4) consecutive weeks.

d. Within thirty (30) days after the Court's entry of the Preliminary Approval Order, the City shall cause the Notice in the form of Exhibit C to the Consent Decree to be published for four consecutive weeks in the following newspapers: *The Atlanta Journal-Constitution*, in English and Spanish, *The Fulton County Daily Report*, in English and Spanish, *The Champion Newspaper*, in English and Spanish, and *Mundo Hispanico*, in Spanish.

e. Each Class Member shall be given a full opportunity to object to the proposed Consent Decree and Class Counsel's request for an award of reasonable attorneys' fees, expenses, and costs, and to participate at the Fairness Hearing. Any Class Member seeking to object to the proposed Consent Decree may submit an

objection to the Court in writing, via e filing, regular mail, or filed in person, by the Objection Deadline.

f. Twenty (20) days prior to the Objection Deadline, Class Counsel shall file a Motion for an Award of Reasonable Attorneys' Fees, Expenses, and Costs. The Parties stipulate that Class Counsel's attorney's fees in the amount of \$600,000 are presumptively reasonable for the services performed and that Class Counsel will submit an attorney's fees for this amount up through the date of this Order.

g. If there are objections to the Consent Decree, Class counsel may submit a supplemental application requesting entry of an additional award of attorneys' fees and expenses relating to any work it has performed litigating objections to the Consent Decree no later than ten (10) days after the Final Judgment. The City does not waive the right to object to any supplemental application for attorneys' fees.

h. The Parties shall file a Joint Motion for Final Approval and may respond to objections, if any, no later than five (5) days prior to the Fairness Hearing. On the same date, the Parties shall also file statements of compliance with notice requirements.

i. The Fairness Hearing shall be held on _____, 2023 at _____.

11. In the event the Court does not grant Final Approval of the Consent Decree, or for any reason the Parties fail to obtain a Final Judgment and Order Approving Consent Decree as contemplated by the Consent Decree, or the Consent Decree is terminated pursuant to its terms for any reason, or the Effective Date does not occur for any reason, then the Consent Decree and all orders and findings entered in connection with the Consent Decree and the Consent Decree shall become null and void and be of no further force and effect whatsoever, shall not be used or referred to for any purpose whatsoever, and shall not be admissible or discoverable in this or any other proceeding.

12. This Order shall not be construed or used as an admission, concession, or declaration by or against the City of any fault, wrongdoing, breach, or liability. It shall not be deemed to be a stipulation as to the propriety of class certification, or any admission of fact or law regarding any request for class certification, in any other action or proceeding, whether or not involving the same or similar claims.

13. Nor shall this Order be construed or used as an admission, concession, or declaration by or against Plaintiffs or the other Class Members that their claims lack merit or that the relief requested is inappropriate, improper, or unavailable, or as a waiver by any Party of any defenses or claims he, she, or it may have in this Action or in any other proceeding.

IT IS SO ORDERED.

SO ORDERED, this ____ day of _____, 2023.

Steven D. Grimberg
United States District Judge

Copies furnished to:

All counsel of record

EXHIBIT C

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

ATTENTION ALL INDIVIDUALS WITH MOBILITY DISABILITIES: If you have used, or attempted to use, the pedestrian right of way in the City of Atlanta and have encountered sidewalks that are broken, uneven, improperly constructed, improperly maintained, obstructed by trees, utility poles, and construction or encountered curb ramps and curb cuts that are missing, broken, or otherwise in a condition not suitable or sufficient for use, you may be a member of the proposed Class affected by this lawsuit. This is a court-authorized notice.

A “Mobility Disability” means any physical or mental impairment that substantially limits a person’s major life activity of ambulating, including, but not limited to a person’s ability to walk, maneuver around objects, or to ascend or descend steps or slopes consistent with the definition of “disability” under Section 302 of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, 12102(2), and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 705(20), 794(a). A person with a Mobility Disability may or may not use a wheelchair, scooter, “other power-driven mobility device” as defined in 28 C.F.R. § 35.104, crutches, walker, cane, brace, orthopedic device, or similar equipment.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.

NOTICE OF CLASS ACTION

The purpose of this notice is to inform you of a proposed settlement in a pending class action lawsuit brought on behalf of individuals with Mobility Disabilities against the City of Atlanta. The proposed class action settlement is set out in a document called a “proposed Consent Decree.” The proposed Consent Decree, which must be approved by the United States District Court before it goes into effect, was reached in the case entitled *Lawson et al. v. City of Atlanta, Georgia*, Case No. 1:18-CV-02484-SDG, filed in the United States District Court for the Northern District of Georgia.

BASIC INFORMATION

This lawsuit alleges that the City of Atlanta (the “City”) violated federal disability access laws by failing to install or otherwise maintain the pedestrian rights of way, including but not limited to sidewalks and curb ramps, to ensure that people with Mobility Disabilities can access the pedestrian rights of way. The City disputes these allegations and denies that it has violated the law.

This is a class action. In a class action, one or more “Class Representatives” sue on behalf of all people who have similar legal claims. In this case, the Class Representatives are Laurel Lawson, James Curtis, and James Turner, who are Atlanta residents or visitors with Mobility Disabilities. In a class action, one court resolves the issues for all Class Members. United States District Judge Steven D. Grimberg is in charge of this class action. The Court has not decided in favor of either the Class Representatives or the City in this case. Instead, both sides agreed to a settlement.

THE SETTLEMENT CLASS

The Settlement Class includes all people with a Mobility Disability who have been or will be denied equal access to the pedestrian rights of way in the City of Atlanta at any time up through the expiration of the Consent Decree as a result of the City's policies and practices with regard to design, installation, repair, and maintenance of its pedestrian rights of way.

SUMMARY OF PROPOSED CONSENT DECREE

The following is a summary of certain provisions of the Proposed Consent Decree. To access a copy of the full Consent Decree, see the "Further Information" section below.

Under the proposed Consent Decree, the City must perform a Self-Evaluation of the City's Department of Transportation ("DOT") Public Rights of Way ("PROW") programs. The Self-Evaluation will identify the DOT PROW programs that are not accessible and usable by persons with Mobility Disabilities. In turn, the Self-Evaluation will be utilized to create the City's Transition Plan for Sidewalks which will identify, among other things, the various physical barriers that limit the accessibility of the DOT PROW programs and a schedule, which will updated as progress is made, to address the physical barriers that limit the access to the DOT PROW programs.

Over 25 years, the City has committed to removing the barriers that are identified in the Transition Plan for Sidewalks. Further, the City will adopt policies, practices and procedures to maintain ongoing accessibility in the PROW. The City will report its progress on an annual basis during the term of the proposed Consent Decree to a Court-appointed Monitor to ensure compliance its obligations in the proposed Consent Decree.

The City will also establish a complaint intake procedure through its 3-1-1 system to allow members of the public to conveniently report barriers to accessibility to DOT such that these complaints are segregated from other claims that do not involve the PROW. The City has committed to DOT prioritizing complaints that it receives through this process.

RELEASE OF CLAIMS

The proposed Consent Decree resolves and releases, through the end of the Term of the proposed Consent Decree, all claims for injunctive, declarative, or other non-monetary relief arising under the Accessibility Laws that were brought, could have been brought, or could be brought in the future through the Term of the Consent Decree. The proposed Consent Decree does not provide for any monetary relief to Class Members. The Released Claims do not include any claims to enforce the terms of the Consent Decree or any claims for individual relief for personal injuries or property damage resulting from rights of way that do not comply with the Accessibility Laws.

REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES

Under the proposed Consent Decree, Class Counsel can apply to the Court for an award of attorneys' fees, costs, and expenses from the City to pay them for their work on the case and to reimburse them for the costs they put into the case. The Class and the City have stipulated that

\$600,000 is presumptively reasonable for the work performed by Class Counsel through the date of the Preliminary Approval Order. Class Counsel may apply for additional fees in the event they need to litigate any objections from the Class, and the City may object to Class Counsel's request for additional fees.

Under the proposed Consent Decree, Class Counsel will also receive their reasonable attorneys' fees and costs relating to the monitoring of the City's compliance of the Consent Decree throughout the term of the Consent Decree. Class Counsel's attorneys' fees for monitoring the City's compliance with the Consent Decree throughout the term of the Consent Decree shall be capped at \$625,000. If at any time after 15 years, Class Counsel determines that the \$625,000 cap will be inadequate to provide for reasonable attorneys' fees, then Class Counsel may petition the Court for an order requiring the City to pay additional funds, which the Court will consider upon a showing by clear and convincing evidence.

Under the proposed Consent Decree, the Monitor shall receive all fees and expenses arising from monitoring, advising, consulting with, reviewing and evaluating the City's reports required under the Consent Decree. The total monitor fees shall not exceed \$20,000 per year for years 1-12, and \$10,000 per year for years 13-25.

THE COURT'S FINAL APPROVAL/FAIRNESS HEARING

The Court has preliminarily approved the proposed Consent Decree, and has scheduled a "Final Approval" or "Fairness" hearing for **[DATE]** at 1701 Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303, Courtroom 1706, to decide whether the proposed settlement is fair, reasonable, and adequate, and should be finally approved, as well as whether and how much to award to Class Counsel in reasonable attorneys' fees, costs, and expenses. At the hearing, the Court will consider any objections to the settlement and listen to individuals who wish to speak. As a Class Member, you have the right to be heard at this hearing, but you are not required to attend.

This hearing date is subject to change without further notice. If you wish to be informed of any changes to the schedule, please notify Class Counsel at the address listed below. You may also check the public court records on file in this action at <https://www.pacer.gov/> for any updates.

OBJECTIONS TO THE SETTLEMENT

If you do not want the proposed Consent Decree to be approved, you can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement or change the settlement; the Court can only approve or reject the settlement. If the Court denies approval, the City will not be required to make the modifications to the pedestrian rights of way as set out in the proposed Consent Decree. Instead, the lawsuit will continue. If that is what you want to happen, you must object. Any objection to the proposed Consent Decree must be in writing.

All written objections and supporting papers must (a) clearly identify the case name and number (*Lawson et al. v. City of Atlanta, Georgia*, Case No. 1:18-CV-02484-SDG), (b) be submitted to the Court either by mailing them to the clerk's office, United States District Court for the Northern

District of Georgia, 1701 Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA, 30303, or by filing them in person at any location of the United States District Court for the Northern District of Georgia, and (c) be filed or postmarked on or before **[deadline]**.

If you submit an objection, it should include the following information: (a) your name, address, and, if available, your telephone number and e-mail address; (b) if you are being represented by counsel, the name, address, telephone number and e-mail address of your attorney; (c) a statement identifying the specific grounds for your objections; and (d) a statement of whether your objection applies only to you, to a specific subset of the class, or to the entire class. **All objections must be submitted or postmarked on or before [deadline].**

All objections should also be sent to Class Counsel at the following address:

James Radford
Radford & Keebaugh
315 West Ponce de Leon Ave
Suite 1080
Decatur, Georgia 30030
james@decaturlegal.com

Andrew Coffman
Parks, Chesin & Walbert, PC
75 14th Street, 26th Floor
Atlanta, Georgia 30309
acoffman@pcwlawfirm.com

You may, but are not required to, appear at the Final Approval Hearing scheduled for **[date]** at 1701 Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303, Courtroom 1706, to have your objection heard by the Court, either by yourself or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Any Class Member who does not object at or before the Final Approval Hearing will be deemed to have approved the settlement and to have waived such objections and shall not be able to make any objections (by appeal or otherwise) to the settlement.

**IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU NEED NOT
APPEAR OR FILE ANYTHING IN WRITING.**

BINDING EFFECT

The proposed Consent Decree, if given final approval by the Court, will bind all members of the Settlement Class. This will bar any person who is a member of the Settlement Class from prosecuting or maintaining any claim or action released under the terms of the proposed Consent Decree.

FURTHER INFORMATION

This notice summarizes the proposed Consent Decree. For the precise and full terms and conditions of the settlement, please see the proposed Consent Decree available at **INSERT WEBSITE**, by contacting Class Counsel at the contact information below, by accessing the Court docket on this case through the Court's Public Access to Electronic Records (PACER) system at <https://www.pacer.gov/>, or by visiting the office of the Clerk of the Court for United States District Court for the Northern District of Georgia, 75 Ted Turner Drive, SW, Atlanta, GA 30303.

You can also obtain more detailed information about the settlement or a copy of the proposed Consent Decree from Class Counsel at any of the following addresses:

James Radford
Radford & Keebaugh
315 West Ponce de Leon Ave
Suite 1080
Decatur, Georgia 30030
james@decaturlegal.com

Andrew Coffman
Parks, Chesin & Walbert, PC
75 14th Street, 26th Floor
Atlanta, Georgia 30309
acoffman@pcwlawfirm.com

Please do not telephone the Court or the Court Clerk's Office to inquire about this settlement.

To obtain copies of this Notice or the proposed Consent Decree in alternative accessible formats, please contact Class Counsel listed above.

EXHIBIT D

EXHIBIT D

(List of Disability Rights Organizations in Georgia)

| Name of Organization | Address |
|---|--|
| American Disabilities Rights, Inc. | 270 Cobb Parkway, SE Suite 140-101 Marietta, Georgia 30060 |
| Disability Law & Policy Center of Georgia | 2020 Peachtree Road, NW Atlanta, Georgia 30309 |
| Disability Link | 901 Montreal Road Suite 102 Tucker, Georgia |
| Disability Resource Center | 170 Scroggins Drive Demorest, Georgia 30535 615 Oak Street Gainesville, Georgia 30501 |
| Easterseals North Georgia | 815 Park North Blvd Clarkston, Georgia 30021 |
| Georgia Advocacy Office | 1 W. Court Square #625 Decatur, Georgia 30030 |
| Propel Atlanta | 2870 Peachtree Road, NW Atlanta, Georgia 30305 |
| Shepherd Spine and Pain Institute | 2020 Peachtree Road Atlanta, Georgia 30309 |
| Statewide Independent Living Council of Georgia | 315 West Ponce de Leon Avenue Suite 660 Decatur, Georgia 30330 |
| The Arc | PO Box 482 Smyrna, Georgia 30080 |
| United Way of Greater Atlanta | 40 Courtland Street, NE #300 Atlanta, Georgia 30303 |

EXHIBIT E

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LAUREL LAWSON, JAMES CURTIS,)
and JAMES TURNER, on behalf of)
themselves and other similarly-situated)
persons,)
)
Plaintiffs,)
)
v.)
)
CITY OF ATLANTA, GEORGIA,)
)
Defendant.)

CIVIL ACTION FILE NO.
1:18-cv-02484-SDG

**[PROPOSED] FINAL JUDGMENT AND ORDER APPROVING CLASS ACTION
SETTLEMENT**

WHEREAS, on [DATE], at [TIME], the Court held a hearing (the “Fairness Hearing”) to determine, among other things, whether the settlement in this action between Defendant City of Atlanta, Georgia (the “City”) and Plaintiffs Laurel Lawson, James Curtis, and James Turner (collectively, the “Plaintiffs”), as set forth in the Consent Decree, a copy of which is attached hereto as Exhibit 1 (the “Consent Decree”), is fair, reasonable, and adequate, such that an Order of final approval should be issued and a final judgment upon said Consent Decree should be entered by the Court,

WHEREAS, the Fairness Hearing was attended by the Parties, through their respective counsel of record in this action, and by such other individuals and entities as set forth in the record in this matter.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The Court, for the purposes of this Judgment, adopts the terms and definitions set forth in the Consent Decree.

2. The Court has jurisdiction over the subject matter of this action, Plaintiffs, the Class, the Consent Decree, and the City.

3. The Court finds that the Notice of Proposed Settlement of Class Action Lawsuit (“Settlement Notice”) notified the Class of the pendency of this action and of the proposed settlement and was disseminated by each of the means required under the Consent Decree and the Order Granting Preliminary Approval of Class Action Settlement (ECF No. ____) dated _____ and was otherwise fully implemented.

4. The Court finds that the Settlement Notice, as ordered and implemented, was reasonably calculated under the circumstances to apprise the Class Members of the pendency of this action, all material elements of the proposed Settlement, and their opportunity (a) to submit written objections to the Settlement, and (b) to appear at the Fairness Hearing to object to or comment on the Settlement.

The Settlement Notice was reasonable and the best notice practicable to all Class Members and complied with the Federal Rules of Civil Procedure, due process, and all other applicable laws and rules. A full and fair opportunity has been afforded to the members of the Class to participate during the Fairness Hearing, and all other persons wishing to be heard have been heard. Accordingly, the Court determines that all members of the Class, as set forth below, are bound by this Judgment.

5. On _____, this Court appointed Plaintiffs as Class Representatives of the Class, and appointed James Radford of Radford & Keebaugh and Andrew Coffman of Parks, Chesin & Walbert, PC as Class Counsel to represent the Class.

6. On _____, this Court provisionally certified the following Class pursuant to Federal Rule of Civil Procedure 23(a) and (b)(2), based on the findings in the Order of the same date: “All persons who have, or will have, a Mobility Disability and who have been or will be denied equal access to pedestrian rights of way in the City of Atlanta at any time up through the expiration of this Consent Decree as a result of the City’s policies and practices with regard to design, installation, repair, and maintenance of its pedestrian rights of way.” This Court finds that the Class continues to meet the requirements for class certification under the Federal Rules of Civil Procedure and all other applicable laws and rules.

7. In particular, the Court finds that: (a) joinder of all Class Members in a single proceeding would be impracticable, if not impossible, because of their numbers and dispersion; (b) there are questions of law and fact common to the Class; (c) Plaintiffs' claims are typical of the claims of the Class that they seek to represent for the purposes of settlement; (d) Plaintiffs have fairly and adequately represented the interests of the Class and will continue to do so; (e) Plaintiffs and the Class are represented by qualified, reputable counsel who are experienced in preparing and prosecuting class actions, including those involving the sort of practices alleged in the Complaint; and (f) the City acted or refused to act on grounds that apply generally to the Class, so that declaratory and injunctive relief is appropriate.

8. Class certification is therefore an appropriate mechanism for protecting the interests of the Class and resolving the common issues of fact and law arising out of Plaintiffs' claims while also eliminating the risk of duplicative litigation. Accordingly, the Court hereby makes final its earlier provisional certification of the Class and further confirms the appointment of the Class Representatives and Class Counsel to represent the Class.

9. The Court grants final approval of the Settlement set forth in the Consent Decree and finds, after considering all of the factors set forth in Federal Rule of Civil Procedure 23(e)(2), that it is fair, reasonable, adequate, and in the best interests of the Class as a whole. The Settlement, which was negotiated at arm's

length, offers Class Members comprehensive injunctive relief regarding all of the claims in Plaintiffs' Complaint, and treats Class Members equitably relative to each other. The Court grants final approval of the release of the City from the Released Claims as set forth in the Consent Decree.

10. The Court further finds that the City's obligations as set forth in the Consent Decree are proper and reasonably calculated based on the available information to provide people with Mobility Disabilities access to the City's pedestrian rights of way. Accordingly, the Settlement shall be consummated in accordance with the terms and conditions of the Consent Decree.

11. No Class Member has objected to the Settlement. The absence of any objections further supports the Settlement's final approval.

12. The Class Representatives and all Class Members (and their respective heirs, assigns, successors, executors, administrators, agents, and representatives) are conclusively deemed to have released and forever discharged the City from all Released Claims as set forth in the Consent Decree. The Class Representatives and all Class Members are bound by this Judgment.

13. The benefits described in the Consent Decree are the only consideration, fees, costs, and expenses that the City shall be obligated to give to any party or entity, including without limitation, the Class Representatives, the Class

Members, and Class Counsel in connection with the claims released in the Consent Decree and/or the payment of attorneys' fees, costs, and expenses in this action.

14. The Consent Decree and this Judgment are not admissions of liability or fault by the City, or a finding of the validity of any claims in this action or of any wrongdoing or violation of law by the City. The Consent Decree is not a concession by the Parties and, to the fullest extent permitted by law, neither this Judgment, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding to establish any liability of or admission by the City.

15. Notwithstanding the foregoing, nothing in this Judgment shall be interpreted to prohibit the use of this Judgment to consummate or enforce the Consent Decree or Judgment, or to defend against the assertion of Released Claims in any other proceeding, or as otherwise required by law.

16. In accordance with the terms of the Consent Decree, which is attached hereto, the Court reserves exclusive and continuing jurisdiction over Plaintiffs, the Class Members, the City and the Consent Decree throughout the term of the Consent Decree, for the sole purpose of supervising the implementation, enforcement, construction, and interpretation of the Consent Decree and this Judgment. In that regard, any challenges to the Consent Decree's terms or implementation, whether

under state or federal law, shall be subject to the exclusive and continuing jurisdiction of this Court.

IT IS SO ORDERED.

SO ORDERED, this ____ day of _____, 2023.

Steven D. Grimberg
United States District Judge

Copies furnished to:

All counsel of record

EXHIBIT F

EXHIBIT F

(Sample Content for Transition Plan for Sidewalks)

| Item | Description |
|--------------------------------|--|
| Introduction | History and Purpose, including a goal of reaching substantial compliance with ADA |
| Existing stats/infratstructure | State estimate of size of Atlanta and miles/kilometers of sidewalks impacted by the plan |
| History of plan | Summary of formulation of plan, such as hearings, process, input from stakeholders, in reaching the conclusions in the plan |
| List of Priorities | Priorities for physical improvements, including description of alterations (i.e., new sidewalks, ramps, slopes, etc.) |
| Design Standards | Refernce to and outline of various design standards to be implemented |
| Budget Commitment | Estimate of annual costs and the City's projected budget commitments |
| ADA Coordinator | Name and identification of coordinator, contact information, outline of responsibilities, etc. |
| Complaint/Notification Process | Outline new 3-1-1 resources to be used as complaint or notification process for citizens to notify ADA Coordinator/DOT of areas in need of repair. Should include internatl deadlines for action items |
| Grievance Procedure | Detailed description of process to resolve citizen concerns when complaints or notices of needed repairs are not met. |
| Conclusion | Summary of goals, etc. |

EXHIBIT G

City of Atlanta – 2022 TSPLOST – Project List

\$300,000,000 Total

| Project Name | CD | Cost |
|---|----------|------------|
| Safer Streets (Detail Below) | Citywide | 90,569,338 |
| Sidewalks - New Sidewalk Installs on Major Streets (Detail Below) | Citywide | 61,011,529 |
| Sidewalks - Sidewalk Repair on Major Streets | Citywide | 41,667,195 |
| Sidewalks - State Route Sidewalk & Paths (Hollowell, Memorial, Moreland, Northside Parkway, Roswell and others) | Citywide | 8,750,000 |
| Overhead | Citywide | 39,000,000 |
| Bridge Maintenance, Repair and Replacement | Citywide | 18,000,000 |
| Bridges - Cheshire Bridge Emergency Repair | 6 | 7,000,000 |
| Strategic Traffic Calming (Speed Humps, Cushions, etc) | Citywide | 10,000,000 |
| Traffic Signals | Citywide | 10,000,000 |
| Mount Paran Resurfacing & Safety Improvements | 8 | 3,500,000 |
| Bus Shelters & Bus Rider Experience Improvements | Citywide | 3,400,000 |
| Northside Paving (Muscogee, Tall Pines, Laurel, Laurel Forest) | 8 | 3,250,000 |
| Trolley Trail Beltline Connection, Spurs & Extension | 5 | 2,851,937 |
| Contribution to PATH SW Beltline Connector Trail | 11 | 1,000,000 |

Detail on Safe Streets Projects

| Project Name | Length | AVG PCI | Low PCI | SEM Score | Estimated Cost (\$M) |
|---|--------|---------|---------|-----------|----------------------|
| Cleveland Ave Pedestrian & Safety Improvements | 3 | 83 | 53 | 1.0 | 2.0 |
| Lee Street Trail (Southside Bike Project) & Safety Improvements | 2.7 | - | - | 0.9 | 5.0 |
| McDaniels Safe Street & Protected Bike Lanes | 1.75 | 57 | 27 | 0.9 | 4.8 |
| Lowery Safe Street & Protected Bike Lanes | 3 | 54 | 26 | 0.9 | 6.9 |
| RDA-Georgia Safe Street & Protected Bike Lanes | 2.3 | 68 | 27 | 0.9 | 8.0 |
| Peachtree Safe Street | 2.6 | 53 | 30 | 0.9 | 9.7 |
| Pryor & Central Safe Street & Protected Bike Lanes | 3.7 | 43 | 27 | 0.9 | 10.3 |
| Westlake MARTA Station Safe Intersection Project at MLK & West Lake | 0.25 | 51 | 32 | 0.9 | 0.8 |
| Courtland Dedicated Bus Lanes & Courtland / Piedmont Protected Bike Lanes near Georgia State University & Safety Improvements | 2 | 57 | 40 | 0.7 | 5.0 |
| Whitehall Safe Street & Protected Bike Lanes | 1.1 | 49 | 29 | 0.6 | 2.0 |

| Project Name | Length | AVG PCI | Low PCI | SEM Score | Estimated Cost (\$M) |
|---|--------|---------|---------|-----------|----------------------|
| Ralph McGill / Ivan Allen Safe Street & Protected Bike Lanes | 2.4 | 40 | 22 | 0.6 | 8.0 |
| Lenox Road Safe Street & Multipurpose Path | 0.3 | 49 | 20 | 0.4 | 6.0 |
| Midtown Safe Street Corridor (Extension of 10th Street Protected Bike Lane / Peachtree Pl Low Stress Bikeway) | 1 | - | - | 0.4 | 2.0 |
| South Boulevard Safe Street & Protected Bike Lane | 2.1 | 48 | 25 | 0.4 | 1.8 |
| Monroe Safe Street | 2 | 42 | 29 | 0.4 | 4.0 |
| 15th Street Safe Street Corridor from Arts Center MARTA Station to Piedmont Park | 0.6 | 50 | 35 | 0 | 1.9 |
| Euclid Ave Safe Street & Little 5 Points Streetscape | 0.6 | 50 | 24 | -0.2 | 3.0 |
| Sidney Marcus Safe Street & PATH 400 Link to Lindbergh MARTA Station | 0.4 | 37 | 20 | -0.2 | 3.4 |
| Central Park Place Safe Street & Protected Bike Lanes | 0.8 | 58 | 31 | -0.3 | 2.0 |
| Marietta Blvd Rebuild Local Match & Safety Improvements | 3 | 53 | 37 | -0.3 | 4.0 |
| Total | | | | | 90.6 |

Detail on Sidewalk Installs on Major Streets

| Rank | Corridor | SEM Score of Most Needed Segment | Total Corridor Cost |
|------|-----------------------|----------------------------------|---------------------|
| 1 | WEST LAKE AVE | 1.85 | 265,385 |
| 2 | CLEVELAND AVE | 1.75 | 1,553,190 |
| 3 | PRYOR | 1.50 | 843,322 |
| 4 | BOULDER PARK DR | 1.48 | 827,231 |
| 5 | FAIRBURN RD | 1.46 | 2,358,394 |
| 6 | HIGHTOWER RD | 1.42 | 273,233 |
| 7 | LINKWOOD RD | 1.28 | 1,870,043 |
| 8 | BROWNS MILL RD | 1.17 | 10,279,739 |
| 9 | CAMPBELLTON RD | 1.17 | 3,980,366 |
| 10 | DELOWE DR | 1.17 | 1,145,431 |
| 11 | BOONE/COLLIER DR | 1.07 | 4,186,033 |
| 12 | SYLVAN RD | 1.03 | 821,179 |
| 13 | HOLLYWOOD RD | 1.01 | 48,325 |
| 14 | MARIETTA BLVD | 1.00 | 1,915,782 |
| 15 | MARTIN LUTHER KING JR | 0.98 | 746,815 |
| 16 | HARWELL RD | 0.89 | 450,501 |
| 17 | MCDANIEL ST | 0.88 | 606,924 |

| Rank | Corridor | SEM Score of Most Needed Segment | Total Corridor Cost |
|------|---------------------|----------------------------------|---------------------|
| 18 | MOUNT ZION RD | 0.85 | 3,019,364 |
| 19 | MOUNT GILEAD RD | 0.85 | 2,578,432 |
| 20 | HANK AARON DR SW | 0.83 | 338,072 |
| 21 | BARGE RD | 0.83 | 1,473,571 |
| 22 | FULTON INDUSTRIAL E | 0.72 | 8,667 |
| 23 | LAKEWOOD AVE | 0.72 | 1,196,414 |
| 24 | CENTRAL AVE | 0.70 | 714,155 |
| 25 | PANTHER TRL | 0.66 | 829,320 |
| 26 | OAKLAND DR | 0.43 | 188,115 |
| 27 | HARBIN ROAD | N/A | 1,796,568 |
| 28 | UNIVERSITY AVE | 0.41 | 172,860 |
| 29 | DONNELLY AVE | 0.41 | 313,944 |
| 30 | CHILDRESS DR | 0.38 | 819,411 |
| 31 | FORREST HILLS DR | 0.38 | 212,177 |
| 32 | LENOX RD | 0.35 | 1,043,955 |
| 33 | SANDTOWN RD | 0.31 | 570,923 |
| 34 | BEECHER | 0.27 | 2,792,231 |

| Rank | Corridor | SEM Score of Most Needed Segment | Total Corridor Cost |
|------|---------------------|----------------------------------|---------------------|
| 35 | HALL ST | 0.24 | 244,751 |
| 36 | PACES FERRY RD | 0.21 | 233,428 |
| 37 | HOWELL MILL RD | 0.20 | 810,717 |
| 38 | CHESHIRE BRIDGE RD | 0.18 | 46,649 |
| 39 | 2ND AVE | 0.15 | 118,615 |
| 40 | RICHLAND RD | 0.05 | 189,325 |
| 41 | NORTH AVE | 0.04 | 59,097 |
| 42 | NORTH SIDE SIDEWALK | N/A | 3,873,527 |
| 43 | ELLSWORTH INDUSTRI | N/A | 530,303 |
| 44 | MOORES MILL RD | (0.14) | 390,713 |
| 45 | CONSTITUTION RD | (0.19) | 603,932 |
| 46 | 14TH ST | (0.28) | 107,066 |
| 47 | EUCLID AVE | (0.32) | 449,877 |
| 48 | CHATTAHOOCHEE AVE | (0.41) | 1,920,599 |
| 49 | OAKDALE RD | (0.52) | 139,906 |
| 50 | RALPH MCGILL BLVD | (0.55) | 45,409 |
| 51 | 17TH ST | (0.78) | 1,007,543 |

New Sidewalk Installs: 51 Corridors, 30 Miles, \$61M Investment

EXHIBIT H

EXHIBIT H

(Sample Content for Progress Reports)

| Item | Description |
|---|---|
| Metrics | Statement quantifying improvements made relative to pre-existing conditions outlined in Transition Plan. |
| Funding | Description of budget outlays for improvements during the period covered by the Progress Report. Describe how this budget commitment compares to estimates contained in Transition Plan. |
| Complaints | Summary of complaints received and complaints resolved, including explanation for unresolved complaints within internal timelines, if any. Should include list of any complaints that were terminated and why (i.e., project is not within priorities of Transition Plan, repair not feasible, already scheduled, etc.) |
| Statistical analysis as measure of compliance | Calculate percentage of complaints received versus complaints resolved, including an explanation of how complaints meet Transition Plan goals or fail to meet goals. |
| Changes in Priorities | Describe any changes in the list of priorities as a result of notices or complaints received from public. |
| Personnel Changes | Set forth all personnel changes that may impact goals under Transition Plan. |
| Modifications | Describe all modifications to Transition Plan, whether the result of agreement, executive/council decision, or court order. |
| Self-Evaluation | ADA Coordinator's or consultant's opinion regarding compliance with Transition Plan goals. Include justifications for any actions or inaction, describe areas where performance has exceeded expectations and where improvements are needed. |
| Recommendations | To the extent not included elsewhere, a list and justification for any recommended modifications to Transition Plan. |
| | |